



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS	REDEVELOPMENT AGENCY
Dennis Kennedy, Mayor	Dennis Kennedy, Chair
Steve Tate, Mayor Pro Tempore	Steve Tate, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Mark Grzan, Council Member	Mark Grzan, Agency Member
Greg Sellers, Council Member	Greg Sellers, Agency Member

WEDNESDAY, JUNE 15, 2005

AGENDA

JOINT MEETING

CITY COUNCIL REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

7:00 P.M.

A Special Meeting of the Redevelopment Agency is called at 7:00 P.M. for the Purpose of Conducting City Business.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORT
Council Member Sellers

CITY COUNCIL SUB-COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council Action

CONSENT CALENDAR:

ITEMS 1-15

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate

Page

Consent Calendar: 1 - 10 Minutes

1. **FIRE SERVICES CONTRACT** 8
Recommended Action(s):
 1. **Approve** the Contract; and
 2. **Authorize** the City Manager to Execute the Contract on Behalf of the City.

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
2.	<u>AGREEMENT WITH “CIRCA: HISTORIC PROPERTY DEVELOPMENT” TO PREPARE HISTORIC CONTEXT STATEMENT FOR THE CITY OF MORGAN HILL</u>41 Recommended Action(s): <u>Approve</u> and <u>Authorize</u> Execution of the Agreement, Subject to Review and Approval by the City Attorney.	
3.	<u>AGREEMENT BETWEEN THE CITY AND INDEPENDENCE DAY, INC. TO CO-SPONSOR THE JULY FOURTH CELEBRATIONS</u>49 Recommended Action(s): <u>Authorize</u> the City Manager to Sign the Co-Sponsorship with Independence Day, Inc., Subject to Review and Approval by the City Attorney.	
4.	<u>AQUATICS CENTER OPERATING POLICIES</u>50 Recommended Action(s): <u>Approve</u> Current Policies Regarding the Required Wearing of Swim Diapers for those under Three Years of Age and All Bags are Subject to Search Upon Entering the Facility.	
5.	<u>JOINT POWERS AGREEMENT (JPA) BETWEEN COUNTY OF SANTA CLARA AND THE CITY OF MORGAN HILL FOR CONTINUANCE OF THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM</u>51 Recommended Action(s): <u>Adopt</u> Resolution Authorizing the City Manager to do Everything Necessary to Execute and Implement the Joint Powers Agreement (JPA) with the County of Santa Clara for the City’s Continuing Participation in the County’s CDBG Program.	
6.	<u>INDOOR RECREATION CENTER PROJECT – MAY CONSTRUCTION PROGRESS REPORT</u>54 Recommended Action(s): <u>Information</u> Only.	
7.	<u>ACCEPTANCE OF SIGNING AND STRIPING FOR CLASS II BIKEWAYS PROJECT</u>55 Recommended Action(s): 1. <u>Approve</u> Change Order in the Amount of \$4,160 for Additional Pavement Widening at Dunne Avenue and Gallop Drive to Allow for Bike Lanes; 2. <u>Appropriate</u> \$5,300 from the Current Year Un-Appropriated Street Fund Balance to Cover Non-Grant Related Costs; 3. <u>Accept</u> as Complete the Signing and Striping for Class II Bikeways Project in the Final Amount of \$76,053; and 4. <u>Direct</u> the City Clerk to File a Notice of Completion with the County Recorder’s Office.	
8.	<u>AWARD OF CONTRACT TO PROVIDE PLAN CHECKING SERVICES ON AN AS-NEEDED BASIS</u>57 Recommended Action(s): 1. <u>Approve</u> Fiscal Year 2005-2006 Professional Services Contract with Harris & Associates to Provide Contract Plan Checking Services on an As-Needed Basis at a Not-to-Exceed Fee of \$126,000; Subject to Adoption of the Fiscal Year 2005-2006 Budget; and 2. <u>Authorize</u> the City Manager to Execute the Contract; Subject to Review and Approval by the City Attorney.	
9.	<u>APPROVE DISADVANTAGED BUSINESS ENTERPRISE (DBE) ANNUAL GOAL</u>58 Recommended Action(s): <u>Approve</u> the City’s Disadvantaged Business Enterprise Annual Overall DBE Goal of 3.2% for the Federal Fiscal Year 2004-2005, Beginning on October 1, 2004 and Ending on September 30, 2005.	

Time Estimate
Consent Calendar: 1 - 10 Minutes

Page

10. **AMENDMENT TO CONTRACT PROVIDING PUBLIC WORKS INSPECTIONS ON AN AS-NEEDED BASIS**.....59
Recommended Action(s):
1. **Approve** Amendment to the Contract with Testing Engineers, Inc. (TEI) to Increase the Contract Amount by \$15,000; and
2. **Authorize** the City Manager to Execute the Contract Amendment, Subject to Review and Approval by the City Attorney.

11. **APPROVE PURCHASE FOR GENERATOR ENCLOSURE AND TRAILER FOR LLAGAS BOOSTERS**60
Recommended Action(s):
1. **Approve** Purchase of a Generator Enclosure and Trailer for Llagas Boosters from Quinn Power Systems; and
2. **Approve** Purchase Order of \$30,485.81 to Quinn Power Systems for the Enclosure and Trailer.

12. **PUBLIC WORKS MAINTENANCE AGREEMENTS FOR FISCAL YEAR 2005-2007**.....61
Recommended Action(s):
1. **Approve** New Maintenance Agreements for Sewer Repair for Sewer Lift Station Pumps and Storm Station Pumps;
2. **Approve** New Maintenance Agreements for Generator Maintenance Services; and
3. **Authorize** the City Manager to Execute the Agreements on Behalf of the City, Subject to Review and Approval by the City Attorney.

13. **FOURTH AMENDMENT TO AGREEMENT WITH THE STROMBOTNE LAW FIRM**.....63
Recommended Action(s): **Authorize** the City Manager to execute a Fourth Amendment to Agreement with the Strombotne Law Firm.

14. **RESOLUTION AUTHORIZING THE CITY OF MORGAN HILL TO ENTER INTO AN AGREEMENT WITH PUBLIC AGENCY RETIREMENT SERVICES TO PROVIDE AN ALTERNATE RETIREMENT SYSTEM FOR TEMPORARY AND SEASONAL EMPLOYEES AND ELECTED OFFICIALS**.....65
Recommended Action(s): **Adopt** Resolution.

15. **ADOPT ORDINANCE NO. 1726, NEW SERIES**.....68
Recommended Action(s): **Waive** the Reading, and **Adopt** Ordinance No. 1726, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA-05-01 FOR APPLICATION MP-04-26: COCHRANE-MISSION RANCH (APN 728-32-010).**

Redevelopment Agency Action

CONSENT CALENDAR:

ITEM 16

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

16. [**FACADE IMPROVEMENT PROGRAM**](#)71
Recommended Action(s): Authorize the Executive Director to Make the Recommended Changes to the Facade Improvement Program.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEM 17

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

17. [**APPROVE MINUTES OF JOINT REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF JUNE 1, 2005**](#)73

City Council Action

PUBLIC HEARINGS:

Time Estimate **Page**

18. **2 Minutes** [**DEVELOPMENT AGREEMENT AMENDMENT, DAA-03-15: EAST CENTRAL-WARMINGTON HOMES**](#)82
Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Table** Item.
19. **5 Minutes** [**DEVELOPMENT AGREEMENT AMENDMENT, DAA-98-11: SPRING-MALONE/SPEER**](#)83
Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Motion to Waive** the Reading in Full of Development Agreement Amendment Ordinance.
Action- **Motion to Introduce** Ordinance by Title Only. (Roll Call Vote)

PUBLIC HEARINGS:

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20.	5 Minutes	<u>DEVELOPMENT AGREEMENT, DA-05-02: COCHRANE-LUPINE</u>	87
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Motion to Waive</u> the Reading in Full of Development Agreement Ordinance.	
		Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	
21.	5 Minutes	<u>DEVELOPMENT AGREEMENT AMENDMENT, DAA-04-04: HILL GERA</u>	90
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Motion to Waive</u> the Reading in Full of Development Agreement Amendment Ordinance.	
		Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	
22.	10 Minutes	<u>ZONING AMENDMENT APPLICATION, ZAA-01-20: TENNANT-SAFEWAY</u>	94
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Motion to Waive</u> the Reading in Full of Zoning Amendment Ordinance.	
		Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	
23.	15 Minutes	<u>FOX HOLLOW-MURPHY SPRINGS LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT – CONDUCT FIRST PUBLIC HEARING FOR PROPOSITION 218 BALLOTING PROCESS</u>	105
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Receive</u> Public Comments.	

City Council and Redevelopment Agency Action

PUBLIC HEARINGS:

	Time Estimate		Page
24.	15 Minutes	<u>PUBLIC HEARING OF PROPOSED FISCAL YEAR 2005-2006 OPERATING AND CAPITAL IMPROVEMENT PROGRAM BUDGET</u>	106
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <u>Schedule</u> the Proposed Budget for Adoption on June 22, 2005.	

Redevelopment Agency Action

OTHER BUSINESS:

	Time Estimate		Page
25.	10 Minutes	<u>CHAMBER OF COMMERCE ECONOMIC DEVELOPMENT MARKETING PLAN FOR FISCAL YEAR 2005-2006</u>	107
		<u>Recommended Action(s):</u>	
		1. <u>Refer</u> the Morgan Hill Chamber of Commerce's Economic Development Marketing Plan to the Council's Community and Economic Development Committee (C&ED) for Consideration and Recommendation; and	
		2. <u>Establish</u> Parameters for the C&ED to Consider in Evaluating the Proposal.	

City Council Action

OTHER BUSINESS:

	Time Estimate		Page
26.	45 Minutes	<u>YEAR-LONG COMMUNITY CONVERSATION</u>	108
		<u>Recommended Action(s):</u>	
		1. <u>Discuss</u> Report from Financial Policy Committee and <u>Provide</u> Direction; and	
		2. <u>Add</u> \$50,000 to the Proposed 2005-2006 General Fund Budget for the Cost of a Consultant to Manage the Year-Long Community Conversation Process.	
27.	10 Minutes	<u>INTERVIEW AND APPOINTMENT PROCESS FOR BOARDS AND COMMISSIONS</u>	111
		<u>Recommended Action(s):</u>	
		1. <u>Consider</u> Current Interview/Appointment Process to Boards and Commissions;	
		2. <u>Consider</u> Alternative Process(es);	
		3. <u>Provide</u> Staff Direction as to the Preferred Process; and	
		4. <u>Schedule</u> Date to Interview.	

City Council and Redevelopment Agency Action

OTHER BUSINESS:

	Time Estimate		Page
28.	5 Minutes	<u>JULY 2005 MEETING SCHEDULE</u>	112
		<u>Recommended Action(s):</u> <u>Provide</u> Staff Direction Regarding the City Council and Redevelopment Agency's July 2005 Meeting Schedule.	

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT



CITY COUNCIL STAFF REPORT

MEETING DATE: June 15, 2005

Agenda Item # 1

**Prepared & Submitted
By:**

City Manager

FIRE SERVICES CONTRACT

RECOMMENDED ACTION(S):

- 1) Approve the contract; and
- 2) Authorize the City Manager to execute the contract on behalf of the City.

EXECUTIVE SUMMARY:

The City Council has previously considered and approved proposed business terms for an extension of the Fire Services Contract with the Santa Clara County Fire Department through September 30, 2007.

The attached contract embodies those provisions and establishes the formal agreement between the parties.

Under the contract, Santa Clara County Fire will provide fire emergency response, paramedic response to medical emergencies and certain ancillary services such as inspection, fire prevention, plan check and enforcement. The City has been well served by its relationship with Santa Clara County Fire.

Extending services through September 2007 will provide an opportunity to continue working on the longer term goal of establishing a coordinated and integrated system of fire and emergency medical services for South County.

FISCAL IMPACT:

The City will pay approximately \$4.2 million in the current fiscal year and approximately \$4.4 million in FY 06. Both amounts have been incorporated into the multi year financial forecasts, and the FY 06 amount is included in the proposed budget for FY 06.

FIRE AND EMERGENCY MEDICAL SERVICES AGREEMENT

**CITY OF MORGAN HILL
AND
SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT**

THIS AGREEMENT, is retroactively effective as of July 1, 2004, by and between the City of Morgan Hill, a municipal corporation, organized and operating under the laws of the State of California, (hereinafter "CITY"), and Santa Clara County Central Fire Protection District, a fire protection district, organized and operating under the Fire Protection District Law of 1987 of the California Health and Safety Code, (hereinafter "DISTRICT"). This Agreement supersedes the Agreement entered into on September 19, 1995, and the First Amendment to the Agreement approved by the City of Morgan Hill City Council on June 21, 2000, and by the Santa Clara County Board of Supervisors on February 27, 2001.

**WITNESSETH:
BASED ON THE MUTUAL CONSIDERATION AND PROMISES
CONTAINED HEREIN, THE PARTIES HERETO AGREE AS FOLLOWS:**

**SECTION 1
PURPOSE**

1.01 Purpose. The purpose of this Agreement is to set forth the rights and responsibilities of the parties hereto regarding the fire and emergency medical services to be provided by DISTRICT to CITY. For purposes of this Agreement, the term "Morgan Hill" is defined as: the geographical area within the municipal boundaries of CITY as of the effective date of this Agreement, and all other geographical areas which are thereafter annexed to CITY.

SECTION 2 SCOPE OF SERVICES PROVIDED

2.01 Fire Suppression and Protection Services. DISTRICT shall provide the following fire suppression and protection services to CITY:

A. DISTRICT shall provide all fire protection services within CITY, twenty-four hours a day, seven days a week.

B. DISTRICT shall operate and maintain two (2) three-person companies, one of which will be located in each of the existing DISTRICT-owned fire stations located at 18300 Old Monterey Road and at 2100 East Dunne Avenue in CITY plus a minimum apparatus assignment of two (2) engines and/or one (1) truck as the DISTRICT deems appropriate sufficient to support two three-person crews on twenty-four hour, seven day a week coverage. A typical first alarm response to a structure fire will be two (2) engines and an Incident Commander. A third piece of equipment will be dispatched using call-back and/or automatic-aid resources.

C. DISTRICT shall assign a Battalion Chief to serve as Incident Commander responding as required in CITY. Twenty-four (24) hour Battalion Chiefs shall be stationed near and will respond to calls in Morgan Hill and the immediate area. DISTRICT shall employ and assign at least two (2) full-time equivalent Deputy Fire Marshals to provide services within CITY.

D. In addition to the above, DISTRICT may dispatch such additional companies or units which are necessary, or reallocate resources to meet workload demands during the course of service calls or training sessions for short periods of time.

2.02 Ordinance Enforcement and Implementation Services. DISTRICT shall perform and make available its equipment, facilities and qualified staff in order to adequately perform the following functions for CITY:

A. Checking of building and other development plans pursuant to applications for building permits, and the certification thereof as complying with all applicable ordinances, statutes and regulations, including conditions of zoning approvals relating to fire safety as promulgated by the state, DISTRICT, CITY and any other public agency. The work of checking and certifying such building and other development plans shall be performed accurately, efficiently and expeditiously. In the event CITY becomes dissatisfied with the accuracy, efficiency, or promptness exercised by DISTRICT in performing these services, DISTRICT Fire Chief or other appropriate officer(s) shall confer with CITY for the purpose of seeking methods of improving the services provided by DISTRICT as described above.

B. Provide technical information, advice and recommendations pertaining to the enactment, amendment, repeal and enforcement of fire prevention and suppression ordinances and regulations by CITY for meetings, conferences and hearings with CITY boards, councils, commissions, committees, officials and employees for the foregoing purposes.

C. Be responsible for enforcing and providing all the services, listed in Chapters 2.16 et. seq., 8.40 et. seq., and 15.44 et. seq., of the Morgan Hill Municipal Code (hereinafter "MHMC") and any other relevant provisions in the MHMC and for enforcing any additional fire requirements mandated by the state or federal governments and any minor items required by CITY not specifically indicated, but related to DISTRICT's services as outlined herein. The city manager of CITY shall have final authority in the appeal of disputes pertaining to fire code requirements.

D. Recommend updates to the MHMC code referenced in Section C above as necessary and make recommendations regarding changes, amendments, and

related fees. DISTRICT shall, as requested by and in coordination with CITY, annually review fees and charges related to DISTRICT's services as outlined herein. All recommended changes proposed by DISTRICT will be discussed with CITY staff in advance of any required city council hearing to allow for a full and complete presentation to the city council.

2.03 Prosecution of Code Violations and Fire Cause Investigation.

A. DISTRICT is responsible for enforcement of all MHMC ordinances and regulations applicable to services provided by DISTRICT pursuant to this Agreement. CITY and its city attorney retain responsibility for prosecution of all violations of such MHMC ordinances and regulations. DISTRICT shall take all reasonable and necessary steps to assist and cooperate with CITY and its city attorney regarding any prosecution(s) resulting from such violations. Without cost to DISTRICT, CITY will assist DISTRICT in its investigation(s) and will pursue prosecution of fire or code-related incidents occurring within CITY's jurisdiction.

B. DISTRICT is responsible for all fire cause investigations. DISTRICT will cooperate with the Morgan Hill Police Department, as necessary, regarding investigation(s) of all fires that occur within CITY limits.

2.04 Community Development. DISTRICT shall perform and make available its equipment, facilities and qualified staff as necessary to achieve and comply with the following duties as required by CITY in Morgan Hill:

A. DISTRICT shall review and return all development review submittals within ten (10) working days to CITY, unless a longer period is approved by CITY.

B. DISTRICT shall review and return all building plan check comments

within ten (10) working days to CITY, unless a longer period is approved by CITY.

C. DISTRICT shall promptly pick-up all associated plans herein described in Article 2.04 at City Hall and return them to City Hall.

D. DISTRICT shall submit a flow chart to CITY indicating the process for plan and complete fire-related check/development review and the specific person and job title responsible at each stage.

E. DISTRICT personnel will, with reasonable notice, be available for community development review, such as express plan check, other development related meetings, and counter time as needed by CITY.

F. DISTRICT personnel shall be available to meet with CITY staff, developer or public on two (2) business days notice at City Hall.

G. DISTRICT personnel shall be available by phone as needed by CITY staff or developers/public and return all phone calls promptly.

H. DISTRICT shall notify CITY staff of all DISTRICT Board meetings that include items and/or issues relevant to this Agreement and supply staff with agendas, reports, and minutes following the meetings.

I. DISTRICT shall conduct, but waive fees, for any plan check, inspection, or other DISTRICT tasks for CITY owned, sponsored, or co-sponsored projects/events. Likewise, CITY shall waive similar fees for DISTRICT which are not reimbursable from fire impact fees, however, in no circumstance shall impact fees be waived.

J. DISTRICT shall provide occupancy inspections for "A", "B", "E", "F", "H", "I", "M", "R-1", "R-2", "R-6" and "S" occupancies as defined in the California Building Code, the California Fire Code and the related amendments adopted by CITY

on at least an annual basis. For groups “B” and “M” occupancies, DISTRICT may implement an occupant self-inspection program or conduct inspections as often as determined necessary by the Fire Chief. All violations noted by DISTRICT shall be referred to the Building Department of CITY for prompt remedial action.

K. DISTRICT is responsible for administering all hazardous material programs in CITY including, but not limited to, inspections, permit issuances, and closure plans related to underground storage tanks, and all other required hazardous materials programs except those programs that are designated as being within the jurisdiction of other regulatory agencies. DISTRICT shall cooperate with CITY and other regulatory agencies on all other non-mandatory hazardous materials programs including providing relevant reports as needed.

L. DISTRICT shall keep accurate records on all CITY fire matters that, except as otherwise required by law, shall be available for review by CITY staff during regular office hours. Such records will be reported in a monthly summary to CITY.

M. DISTRICT shall notify CITY Building Official of all structural fires after a report is filed, and immediately if it is an emergency situation that requires an on-site visit by CITY Building Official.

N. DISTRICT shall Cooperate with CITY departments in enforcement of the fire services related nuisance abatement and other related codes, including but not limited to preparing reports, inspection, testifying and interviewing.

O. DISTRICT shall review all requests for street closures submitted for CITY's approval, and coordinate with CITY regarding such closing(s).

P. DISTRICT shall review all applicable business license requests and sign-off immediately in the event that license request is in full compliance with all fire

codes.

Q. DISTRICT shall review all bingo permits pursuant to Chapter 5.12 et. seq., of the MHMC.

R. DISTRICT shall review all fire access on new streets and all water main sizing and location of fire hydrants throughout CITY.

S. DISTRICT shall be responsible for enforcing fire lane and building exit requirements in cooperation with the Morgan Hill Police Department.

2.05 Dispatch Communications. DISTRICT shall, without charge to CITY, establish, operate and maintain a communications system to receive emergency requests from CITY's Public Safety Answering Point for services. The system shall be provided by DISTRICT and shall be maintained on a twenty-four (24) hour basis by an appropriate number of qualified personnel. DISTRICT shall immediately communicate to CITY Communications Center any emergency requests for any service provided by CITY including, but not limited to those relating to drainage overflow or flooding, sewer backups or other malfunction, police protection, and emergency operations.

2.06 Communications System. DISTRICT may use any CITY owned FCC Communications frequency licensed for fire and emergency vehicle services to operate and maintain the communications system required by this Agreement while CITY retains any and all rights of ownership to the license.

2.07 Community Services. DISTRICT shall cooperate with CITY in promoting civic betterment and improvement by providing its staff and equipment for community events and activities, to the extent consistent with the provision of fire prevention and suppression services.

2.08 Cooperative Training. DISTRICT shall make available to CITY employees

mutually beneficial training classes presented by DISTRICT, such as classes in CPR and fire extinguisher use.

2.09 Maps. DISTRICT shall provide copies of updated run maps to CITY. CITY shall provide copies of map changes to DISTRICT.

2.10 Law Enforcement Support. DISTRICT shall provide law enforcement support including, but not limited to, emergency scene stand-by and laddering of buildings.

2.11 Existing Programs. CITY shall encourage the use of residential sprinklers in new construction and agrees to maintain a Weed Abatement Program. Contracted fire resources are allocated on the benefits derived through these programs.

SECTION 3 SERVICE LEVELS, STANDARDS OF PERFORMANCE

3.01 Identifying Problems in Service. In the event CITY determines that DISTRICT has failed to comply with the duties described in this Agreement, CITY shall notify DISTRICT, in writing, sufficiently detailing the specific compliance issue. Upon receipt of the written notice, DISTRICT shall respond within ten (10) working days in writing, setting forth a detailed plan as to how the DISTRICT shall come into compliance. If DISTRICT disagrees with CITY's determination, DISTRICT shall inform CITY in writing, setting forth the factual and/or legal basis for DISTRICT's disagreement.

3.02 Standard of Performance. DISTRICT shall perform all services required under this Agreement in a manner and according to the standards observed by competent fire personnel providing equivalent services. All products of whatever nature and all services shall be prepared and provided in a professional manner. All work product, plan checks, inspections and other services provided pursuant to this

Agreement shall be in conformance with the Uniform Fire Code, and all related fire statutes, laws, regulations and guidelines.

SECTION 4 EMERGENCY OPERATIONS AND MEDICAL SERVICES

4.01 Emergency Medical Services.

DISTRICT shall provide fire engine-based advanced life support first responder services on two of the fire engines assigned to fire stations in the City of Morgan Hill twenty-four hours per day, every day of the year.

4.02 Emergency Operations Services.

A. CITY has primary responsibility for Emergency Services Coordination, however, DISTRICT shall, without charge and upon request by the city council, city manager, or Emergency Services Coordinator of CITY, make available its equipment, facilities and qualified staff in such numbers as necessary to perform adequately in conjunction with CITY's emergency operations program.

B. DISTRICT shall cooperate with CITY in the preparation, maintenance, and execution of its civil defense and disaster plans for emergency operations, and at no time shall fire service resources assigned to or located within CITY be reallocated outside of CITY during a regional or local disaster without approval of the Morgan Hill Director of Emergency Services (City Manager).

SECTION 5 REAL PROPERTY

5.01 Real Property Defined. As used in this section, the term "Real Property" means that land and improvements situated thereon consisting of fire stations and appurtenances thereto described in that document entitled "Real Property Schedule,"

which is marked and hereinafter referred to as Exhibit "A", attached hereto and by reference incorporated herein. DISTRICT owns the Real Property.

5.02 DISTRICT Facilities. DISTRICT agrees that it will not allow nuisances to exist or be maintained at any of the Real Property in CITY. DISTRICT shall keep the premises in a safe, neat and clean condition.

5.03 Underground Storage Tanks.

A. In the event DISTRICT installs or has installed an underground storage tank or tanks on any of the Real Property located in CITY, DISTRICT is responsible for any and all repairs and/or replacement, and maintenance of DISTRICT-installed underground storage tanks. DISTRICT shall retain any and all rights of ownership in said tanks. DISTRICT shall be fully responsible for any and all clean-up costs associated with DISTRICT fuel tanks installed at any time on the premises during DISTRICT's use or ownership of the Real Property listed in Exhibit A. This section shall survive the termination of this Agreement.

B. DISTRICT shall defend, indemnify and hold harmless CITY, its officers, agents, and employees from and against any and all claims, liabilities, loss, injury or damage arising out of or in connection with actions, including claims and administrative processes by government agencies or third parties for investigation, response, removal, clean-up and/or remediation (collectively "claims") arising from or related in any way to any contamination, including contamination by oil or Hazardous Substances of the Real Property, the buildings, or the surrounding area. DISTRICT shall not be responsible for contamination caused by CITY or any other previous owner. Where contamination is from a joint source that includes the owner of the Real Property, there shall be proportional joint liability.

C. In the event CITY installs or has installed an underground storage tank(s) on any of the Real Property, CITY shall be responsible for any and all repairs and/or replacement, and maintenance of CITY-installed underground storage tanks. CITY shall retain any and all rights of ownership in said tanks. CITY shall be fully responsible for any and all clean-up costs associated with CITY installed fuel tanks on the premises during CITY's use or ownership of the Real Property listed in Exhibit A. This section shall survive the termination of this Agreement.

D. CITY shall defend, indemnify and hold harmless DISTRICT its officers, directors, agents, and employees from and against any and all claims, liabilities, loss, injury or damage arising out of or in connection with actions, including claims and administrative processes, by government agencies or third parties, for investigation, response, removal, clean-up, and/or remediation (collectively "claims"), arising from or related in any way to any contamination, including contamination by oil or hazardous substances of the Real Property, the buildings, or the surrounding area. CITY shall not be responsible for contamination caused by DISTRICT. Where contamination is from a joint source that includes the owner of Real Property there shall be proportional joint liability.

5.04 Replacement of Facilities. In the event that any of the Real Property is for any cause destroyed or damaged beyond repair, DISTRICT at its sole expense shall within a reasonable time replace facilities with improvements and facilities of the same kind and purpose, and minimally to the same quality, size and capacity as those damaged or destroyed at a location which will comply with the required response times set forth in this Agreement. Until the destroyed or damaged portions are fully and permanently rebuilt or replaced, DISTRICT shall provide reasonable temporary facilities

within CITY at a location which will continue to comply with the required response times set forth in this Agreement, and DISTRICT shall continue to perform in accordance with this Agreement to the extent reasonably possible by such temporary facilities. The DISTRICT, at its sole expense, will pay for building and modifications required by law, regulation or code.

5.05 Identity of Fire Stations. The parties mutually agree that the retention of Morgan Hill's community identity is important to both agencies, and therefore, all fire stations shall continue to be identified as both City of Morgan Hill and Central Fire Protection District facilities, and the apparatus stationed therein shall bear the name of the City of Morgan Hill and the Central Fire Protection District. Any and all costs associated with any additional labeling shall be paid by DISTRICT.

5.06 New Fire Stations.

A. In the event an additional fire station or fire stations are needed to serve only CITY, CITY shall be responsible for construction thereof. The contractor hired to construct the station(s) shall cooperate to the extent possible with DISTRICT regarding the design and construction of the new facilities.

B. In the event that additional fire stations are needed to serve both CITY and unincorporated areas, CITY and DISTRICT agree to cooperate in negotiating an appropriate cost sharing agreement with neighboring fire protection providers.

C. All construction shall be undertaken in conformance with all applicable California laws such as the Civil Code, Code of Civil Procedure, Health and Safety Code, and the California Public Contracts Code, including laws relating to competitive bidding.

SECTION 6 VEHICLES AND EQUIPMENT

6.01 Equipment-Defined. As used in this section, the term "Equipment" is defined as that equipment, tools, furnishings, supplies and other materials not consisting of Real Property as defined in Section 5 owned by DISTRICT and housed in the fire stations and attached to, mounted upon or contained in its rolling stock. The term "rolling stock" includes those motor vehicles owned by DISTRICT and designated or used for fire prevention and suppression purposes in CITY, described in that document entitled "Equipment and Rolling Stock Schedule," attached hereto, marked Exhibit "B," and incorporated herein by this reference.

6.02 Amortization of Equipment. DISTRICT agrees that the proposed annual operating costs to be paid by CITY in accordance with Section 10 of this Agreement include CITY's proportionate annual share of the cost of amortization/replacement of such equipment listed in the "Equipment and Rolling Stock Schedule."

6.03 New Equipment. In the event new equipment needs to be purchased or needs to be replaced, DISTRICT shall have the sole responsibility for purchasing new equipment and replacing existing equipment.

SECTION 7 RECORDS RETENTION

7.01 Record Retention and Storage. In accordance with all applicable laws, CITY retains ownership of all Morgan Hill Fire Department fire services records. DISTRICT will have access to all such records. DISTRICT will provide a list of records DISTRICT intends to move from CITY for use elsewhere and the new location of such records. Those records that are not needed by DISTRICT at another location will remain

with CITY. Destruction of records that remain with DISTRICT will require consent of CITY.

SECTION 8 INSURANCE AND INDEMNITIES

8.01 Insurance Required.

A. DISTRICT shall insure the real and personal property listed in Exhibits A and B against the risk of damage or destruction in amounts sufficient to enable it to satisfy the obligations created by this Agreement.

B. DISTRICT shall maintain its current insurance program or contract for and maintain during all periods this Agreement is in effect comprehensive general liability insurance and property insurance and shall provide an endorsement naming CITY, members of the city council and all other officers, agents and employees of CITY, individually and collectively, as additional insured, indemnifying the additional insureds from and against any and all loss or damage, and from any and all liability for any loss or damage, and all suits, actions or claims brought by any and all person or persons because of, arising out of, or resulting from the condition or the use of Real Property and the services being provided by DISTRICT, or any act or omission by DISTRICT, its officers, agents or employees. DISTRICT's current insurance program or any future comprehensive general liability insurance shall provide minimum coverage of five million dollars (\$5,000,000). This insurance shall be primary to CITY's general and property insurance policies. Certificates of insurance shall be provided to the risk manager annually on the anniversary date of this Agreement and to the extent DISTRICT alters any coverage, it shall include CITY, members of the city council and all other officers, agents and employees of CITY as additional insured parties. Any and all insurance purchased, must be from carriers holding an A.M. Best rating of no less than A:VII.

CITY shall be given thirty (30) days' advanced notification of any cancellations or lapses in coverage including, but not limited to, policy limits and deductibles. Any changes in breadth of coverage shall be subject to approval by CITY.

C. DISTRICT shall maintain its current workers' compensation self-insurance program or shall at all times maintain workers' compensation insurance in an amount to comply with California statutory requirements. Such coverage shall apply to all DISTRICT employees who are former CITY employees. CITY shall at all times maintain workers' compensation coverage either through a self-insurance program or insurance policy in an amount to comply with California statutory requirements. CITY shall be responsible for any and all workers' compensation claims arising out of an accident or incident that occurred prior to October 2, 1995.

D. CITY shall maintain its own liability insurance coverage, through self-insurance or otherwise, against any claim of liability arising out of the performance of this Agreement.

8.02 Indemnities.

A. CITY shall indemnify, defend, and hold harmless DISTRICT, its directors, officers, agents, and employees from any loss, liability, claim, injury, or damage arising out of, or in connection with, performance of CITY's duties and obligations set forth in this Agreement.

B. DISTRICT shall indemnify, defend, and hold harmless CITY, its directors, officers, agents, and employees from any loss, liability, claim, injury, or damage arising out of or in connection with, performance of the duties and obligations of DISTRICT and its employees as set forth in this Agreement, including, but not limited to, DISTRICT's obligation to provide fire and emergency medical services, DISTRICT's

ownership and operation of the Real Property and the Equipment, and DISTRICT's responsibility for updating the MHMC sections referenced in Section 2(C). This provision is intended to fully apportion the liability otherwise deemed joint and several under California Government Code section 895.2.

SECTION 9 TERM OF AGREEMENT

9.01 Term of Agreement. The term of this Agreement retroactively commenced on July 1, 2004, and continues through September 30, 2007.

9.02 Renewal. This Agreement shall expire at the expiration of the term of this Agreement. There is no automatic renewal clause included in this Agreement. However, upon written request of either party made at least one hundred eighty (180) days prior to the expiration of the Agreement, the parties agree to meet no later than one hundred fifty (150) days before the expiration date to discuss the terms of a new Agreement.

SECTION 10 TERMS OF PAYMENT/FINANCIAL PROVISIONS

10.01 Payment. Commencing on July 1, 2004, CITY shall owe to DISTRICT annual operating costs in the amount of four million one hundred ninety-four thousand three hundred seventy-four dollars (\$4,194,374.00) subject to any deductions or offsets provided for in this Agreement. This rate will also remain in effect from July 1, 2005, through September 30, 2005. Commencing on October 1, 2005, and each October annually, CITY shall owe to DISTRICT the operating costs increased by the formula set forth in 10.04.

10.02 Terms of Payment. DISTRICT shall invoice CITY, and CITY shall make payments as detailed in the Schedule of Monthly Payments provided in Exhibit "C," attached hereto and incorporated herein by this reference. Any payments not received

within fifteen (15) days of the remittance date shall be subject to a late fee of one percent (1%) times the overdue amount.

10.03 Compensation Tendered Sufficient to Cover Services Provided. The parties agree that the compensation required by the terms of this Section shall be sufficient to cover all expenses associated with providing comprehensive fire and emergency medical services by DISTRICT to CITY including, but not limited to, staffing, supplies, services, capital outlay, vehicle and equipment amortization, and communications. The parties further agree that the level of service required by this Agreement shall be sufficient for CITY's needs, and that neither party is subsidizing the other's cost of providing fire or emergency medical services.

10.04 Increases in the Cost of Services.

A. The parties agree that annual increases in compensation to DISTRICT for fire and emergency medical services costs shall be limited to the "arithmetic mean" (average) of the percent growth of the following three indices:

(1) the February to February, San Francisco-Oakland-San Jose, All Urban, All Items Consumer Price Index,

(2) the average annual cost of living increase in total compensation provided to all fire suppression non-management employees of DISTRICT following a calculation formula agreed to as stated in "Calculation Formula," marked as Exhibit "D" and incorporated herein by this reference, and

(3) the Local Secured Values for the total parcels in the City of Morgan Hill as reported by the County of Santa Clara Controller's Office each July.

B. If any index referenced in this Section has a negative growth, the value of that index (indices) will be zero for the purposes of computing the arithmetic mean for that fiscal year. If all three indices have a negative growth, the percent increase will be zero, i.e., at no time will the annual base amount be reduced as a result of the formula described in this Section.

C. DISTRICT shall submit a request for an increase in compensation for the cost of services to CITY by April 15 of each fiscal year for the increase in the cost of services that will be effective on the following October 1. For purposes of measuring the growth in Local Secured Values, the parties will rely on the two most recent fiscal years for which the data is available from the County Controller. As of fiscal year 2003, the document that reports the Local Secured Value is the ATA-IA37-ATAM544 report.

D. The maximum increase that can be applied for the service period of October 1, 2005 through September 30, 2006 is 5%. The maximum increase that can be applied for the service period of October 1, 2006 through September 30, 2007 is 7%.

10.05 Off-Set Costs for Fees Collected. The parties agree that all program receipts attributable to CITY but collected by DISTRICT, including but not limited to, permit fees and plan checks, shall be billed, collected by and accounted for by DISTRICT. Fees collected for contractor (such as building contractors) requested overtime, after hours and on weekends, shall be retained by DISTRICT. The amount of said receipts shall be directly applied to and deducted from the monthly billing as described in paragraph 10.01. CITY reserves the right to employ an outside auditor at CITY's own expense on an annual basis to review the collection and appropriation of these aforementioned program revenue receipts. All revenues collected by CITY shall be retained by CITY.

10.06 Additional Cost per Fire Station. During the term of this Agreement, an additional fire station may be needed to provide adequate fire and emergency medical services to CITY. The additional operational costs of DISTRICT providing services resulting from any new fire station consisting of one (1) three-person company shall be \$2,000,000 plus the annual average increases in the cost of services as calculated in Section 10.04 for each year this Agreement is effective.

10.07 Fire Impact Fees to be Available for New or Remodeled Building. DISTRICT will submit to CITY a proposal with cost not to exceed \$425,000 to replace the portable Fire Prevention Offices at El Toro Fire Station to allow improved access to the public for plan review and conferences. The meeting rooms may also be available for community meetings in accordance with DISTRICT policies.

10.08 Regional Services. The South Santa Clara County Fire Protection District services the southern portion of the City of Morgan Hill under an automatic aid agreement with DISTRICT. Should CITY contract for service with the South County Fire District, the hydrant and inspection workload for the first-due area will be included in the contract services. The parties hereto agree to meet and negotiate in good faith sharing the savings or sharing the additional costs, whichever is applicable, resulting from improved service levels associated with regionalization of services in the event such regionalization is deemed desirable.

SECTION 11 FIRE PERSONNEL

11.01 Fire Personnel

DISTRICT has the right to hire and control all personnel necessary to fulfill its obligations set forth in this Agreement and assumes all responsibility and liability for said personnel in accordance with applicable State and Federal laws.

SECTION 12 TERMINATION

12.01 Termination for Cause. Without limiting any other remedy which may be available, this Agreement may only be terminated for a material breach after utilizing the Arbitration Review Board procedure in paragraph 13.01.

12.02 Termination without Cause. No earlier than the second anniversary date of this Agreement (September 2006 to give termination notice), CITY and DISTRICT can mutually agree to terminate this Agreement without cause.

12.03 Duties upon Termination. In the event of termination, and in accordance with all applicable laws, DISTRICT shall retain ownership of all Fire Department fire service records. CITY will have access to all such records.

12.04 Employment of Fire Personnel upon Termination. Upon termination of this Agreement CITY shall assume full responsibility for fire protection services within Morgan Hill. CITY shall provide its former City of Morgan Hill Fire Department employees currently employed by DISTRICT a right of first refusal for employment subject to CITY's minimum qualifications. Former City of Morgan Hill Fire Department employees currently employed by DISTRICT are described in that document entitled "Former City Fire Personnel," attached hereto marked Exhibit "E" and incorporated herein by this reference. Thereafter, CITY shall provide DISTRICT employees a right of first refusal for employment subject to CITY's minimum qualifications. In the event CITY elects to contract with another provider of fire protection services, CITY shall endeavor to provide the same right of first refusal set forth above in the contract terms with the new provider.

12.05 Repurchase of Real Property. Except as provided in Section 12.05(B) upon termination, CITY shall repurchase any and all Real Property as defined in Section

5.02 of the original Agreement and listed in Exhibit A of this document. The CITY shall decide no less than sixty (60) days prior to termination whether to purchase any Fire Station and shall provide written notice to the DISTRICT on what it intends to do.

A. If this Agreement is terminated and the CITY decides to purchase any or all of the Real Property listed in Exhibit A, effective as of such termination date, CITY assumes all responsibilities and liabilities arising from CITY's use and occupancy of such Real Property.

The CITY and DISTRICT shall attempt to agree on the fair market value of the Fire Station(s) in question for use as a Fire Station as of the date of termination. If the CITY and DISTRICT cannot agree on the fair market value within sixty (60) days of the CITY giving notice that it wishes to purchase a Fire Station(s) the purchase price shall be set by appraisal. Unless the parties agree otherwise each Fire Station shall be independently appraised. Each party shall obtain an independent appraisal by an MAI appraiser. The appraisers shall value each Fire Station for continued use as a Fire Station as of the date of termination. If the parties cannot agree on the price after receipt of the appraisals, then CITY's appraiser and DISTRICT's appraiser shall then mutually select a third qualified appraiser to value the Fire Station(s). The purchase price shall be the value established by the third appraiser.

B. If the CITY does not wish to purchase one or more of the Fire Stations, DISTRICT shall have one hundred eighty (180) days ("Marketing Period") from the receipt of notice to sell one or more of the Fire Stations to whomever it desires. The Marketing Period can be extended by mutual written agreement. The DISTRICT shall be entitled to all proceeds from the sale.

C. At the conclusion of the Marketing Period should the DISTRICT be unable or select not to sell one or more of the Fire Stations the CITY shall be required to purchase the Fire Station(s). The price for the Fire Station(s) shall be determined by appraisal. Unless the parties agree otherwise each Fire Station shall be independently appraised. Each party shall obtain an independent appraisal by an MAI appraiser. The appraisers shall value each Fire Station for continued use as a Fire Station as of the date of termination. If the parties cannot agree on the price after receipt of the appraisals then CITY's appraiser and DISTRICT's appraiser shall then mutually select a third qualified appraiser to value the properties for use as a Fire Station as of the date of termination. The price paid shall be the value established by the third appraiser and the CITY shall buy the Fire Station(s).

12.06 Repurchase of Equipment. Upon termination, CITY shall have the option of repurchasing any and all Equipment, as defined in Exhibit B, previously sold to DISTRICT pursuant to the original Agreement dated September 19, 1995. In the event DISTRICT no longer owns that same Equipment, CITY shall have the option of purchasing comparable or replacement Equipment from DISTRICT. The purchase price shall be the sales price that DISTRICT paid to CITY for the Equipment less any depreciation value in the Equipment. In the event comparable or replacement Equipment exists, CITY shall pay the base price equivalent to the previous sales price plus the value of any additional or upgraded features on the Equipment, less any depreciation value in the equipment.

12.07 Payment upon Termination. DISTRICT shall rebate to CITY any payment for services not received, and CITY shall pay DISTRICT a prorated amount for all days not constituting a full pay period owed up to and including the date of termination, but in

no event shall CITY pay for any days or months subsequent to the termination date. Acceptance of the final payment as described in this paragraph shall constitute a complete accord and satisfaction between the parties.

SECTION 13 DISPUTE RESOLUTION

13.01 Arbitration Review Board. At any time during the term of this Agreement, the party aggrieved by a material breach may provide written notice describing the breach to the party responsible. Upon receipt of the written notice, the party responsible shall respond within ten (10) working days in writing with a detailed action plan summarizing how the party will correct the problem. If the dispute is not resolved within ninety (90) days of such-notice of breach, CITY and DISTRICT will appoint an Arbitration Review Board consisting of three (3) members, one (1) appointed by each entity, and the third mutually agreed upon. After the Board's decision is given, the aggrieved party, if not satisfied, may then give written notice of termination. This arbitration shall be conducted in accordance with procedures agreed to by the parties (such as applicable California statutes regarding non-binding arbitration or the rules set forth by the American Arbitration Association). The arbitration shall be non-binding and each party shall bear its own costs and expenses of this proceeding. The parties shall equally bear the fees charged by the arbitrators.

13.02 Governing Law. California law shall govern this Agreement and the interpretation thereof.

SECTION 14 MISCELLANEOUS PROVISIONS

14.01 Assignment. Except as expressly provided herein, neither CITY nor DISTRICT shall voluntarily or involuntarily assign, delegate, subcontract, pledge,

hypothecate, or encumber any right, duty or interest, in whole or in part, in or of this Agreement.

14.02 Notice. All notices, demands or other writings in this Agreement provided to be given or made or sent, or which may be given or made or sent, by either party hereto to the other, shall be deemed to have been fully given if sent by facsimile or made or sent when made in writing and deposited in the United States mail, registered or certified and postage prepaid, and addressed as follows:

To CITY:	CITY MANAGER 17555 Peak Avenue Morgan Hill, CA 95037 FACSIMILE: (408) 779-1592
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To DISTRICT:	FIRE CHIEF 14700 Winchester Boulevard Los Gatos, CA 95032-1818 FACSIMILE: (408) 378-4079
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The address to which any notice, demand or other writing may be given or made or sent to any party may be changed by written notice given by such party.

14.03 Compliance with Law. CITY and DISTRICT agree to comply with and abide by all federal, state, county, municipal and other governmental statutes, ordinances, laws and regulations which affect this Agreement or any activity, duty, obligation, performance, or occupancy of use of real or personal property which arise from this Agreement.

14.04 Waiver of Rights. Neither party may waive or release any of its rights or interests in this Agreement except in writing. Failure to assert any right arising from this Agreement shall not be deemed or construed to be a waiver of such right.

14.05 Interest in Agreement. This Agreement shall not be deemed or construed to confer upon any person or entity, other than the parties hereto, any right or interest,

including, without limiting the generality of the foregoing, any third party beneficiary status or any right to enforce any provision of this Agreement.

14.06 Consents Approvals, and Modifications.

A. All consents, approvals, interpretations, and waivers relating to this Agreement shall bind a party only when executed by such party's Authorized Representative. CITY's Authorized Representative shall be its city manager and DISTRICT's shall be its Fire Chief. Superiors and successors of, and agents expressly authorized in writing by, said city manager and fire chief, as the case may be, shall also be authorized representatives.

B. The express terms of this Agreement represent the exclusive understanding between the parties for the services contemplated herein. Modification of this Agreement may occur only in writing upon the mutual consent of the parties. The city manager is authorized to approve minor modifications to this contract on behalf of CITY, providing such modifications do not significantly affect the scope of services or compensation. The Fire Chief is authorized to approve minor modifications on behalf of DISTRICT which do not significantly affect the scope of services or compensation.

14.07 Entire Agreement. This Agreement and the exhibits hereto contain the entire Agreement between CITY and DISTRICT with respect to the fire and emergency medical services, and no other agreement, statement, or promise made by any party, or any employee, officer, or agent of any party which is not contained in this Agreement shall be binding or valid.

14.08 Successors in Interest. This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.

14.09 Severability. Should any part, term, portion, or provision of this Agreement be decided to be in conflict with any law of the United States or of the State of California, or otherwise found to be unenforceable or ineffectual, the validity of the remaining terms, parts, portions, or provisions shall be deemed severable and shall not be affected, provided such remaining portions or provisions can be construed in substance to constitute the Agreement which the parties intended to enter into for fire and emergency medical services by DISTRICT in the first instance.

14.10 Nondiscrimination. Each party and every subcontractor shall comply with all applicable federal, state, and local laws and regulations including Santa Clara County's policies concerning nondiscrimination and equal opportunity in contracting. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (sections 503 and 504); California Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101 and 1102. Contractor shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor shall Contractor discriminate in provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations or marital status.

14.11 The rights and obligations of the parties set forth in Sections 5, 7 and 8 shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in duplicate by the persons thereunto duly authorized as of the date first mentioned.

SANTA CLARA COUNTY CENTRAL
FIRE PROTECTION DISTRICT

ATTEST:

By: _____
Chair, Board of Directors
Date: _____

By: _____
Clerk, Board of Directors
Date: _____

APPROVED AS TO FORM AND LEGALITY:

By: _____
Leslie Orta, Deputy County Counsel
Date: _____

CITY OF MORGAN HILL

APPROVED AS TO FORM:

JORGENSEN, SIEGEL, McCLURE & FLEGEL, LLP

By: _____
J. Edward Tewes, City Manager
Date: _____

By: _____
Interim City Attorney
Date: _____

ATTEST:

By: _____
Irma Torrez, City Clerk
Date: _____

EXHIBIT A
REAL PROPERTY SCHEDULE

El Toro Fire Station
18300 Old Monterey Road
Morgan Hill, CA 95037

Dunne Hill Fire Station
2100 East Dune Avenue
Morgan Hill, CA 95037

EXHIBIT B

EQUIPMENT AND ROLLING STOCK

Engine 12 1250 GPM Pumper

Engine 13	1500 GPM Pumper	1992 Pierce/Arrow	4PICA02G5MA000796
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Truck 12	1500 GPM Pumper/ Ladder	1992 Pierce/Smeal	4PICA02G5NA000265
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Engine 112 1500 GPM Pumper

Patrol 12 125 GPM Pumper

Patrol 13	100 GPM Pumper	1988 Ford Utah La Grange	1FDKF38M65KB51877
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Battalion 12 Command Vehicle

	Utility Trailer	1980 Fruehauf	154589075
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Sedan	Inspectors Vehicle	1994 Ford Crown Victoria	2FALP71W1RX181215
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Sedan Inspectors Vehicle

EXHIBIT C

SCHEDULE OF MONTHLY PAYMENTS

Month	Date Due	Monthly Amount
Jul-04	7/1/04	\$ 349,531
Aug-04	8/1/04	\$ 349,531
Sep-04	9/1/04	\$ 349,531
Oct-04	10/1/04	\$ 349,531
Nov-04	11/1/04	\$ 349,531
Dec-04	12/1/04	\$ 349,531
Jan-05	1/1/05	\$ 349,531
Feb-05	2/1/05	\$ 349,531
Mar-05	3/1/05	\$ 349,531
Apr-05	4/1/05	\$ 349,531
May-05	5/1/05	\$ 349,531
Jun-05	6/1/05	\$ 349,531
Jul-05	7/1/05	\$ 349,531
Aug-05	8/1/05	\$ 349,531
Sep-05	9/1/05	\$ 349,531
Oct-05	10/1/05	as per § 10.04
Nov-05	11/1/05	as per § 10.04
Dec-05	12/1/05	as per § 10.04
Jan-06	1/1/06	as per § 10.04
Feb-06	2/1/06	as per § 10.04
Mar-06	3/1/06	as per § 10.04
Apr-06	4/1/06	as per § 10.04
May-06	5/1/06	as per § 10.04
Jun-06	6/1/06	as per § 10.04
Jul-06	7/1/06	as per § 10.04
Aug-06	8/1/06	as per § 10.04
Sep-06	9/1/06	as per § 10.04
Oct-06	10/1/06	as per § 10.04
Nov-06	11/1/06	as per § 10.04
Dec-06	12/1/06	as per § 10.04
Jan-07	1/1/07	as per § 10.04
Feb-07	2/1/07	as per § 10.04
Mar-07	3/1/07	as per § 10.04
Apr-07	4/1/07	as per § 10.04
May-07	5/1/07	as per § 10.04
Jun-07	6/1/07	as per § 10.04
Jul-07	7/1/07	as per § 10.04
Aug-07	8/1/07	as per § 10.04
Sep-07	9/1/07	as per § 10.04

EXHIBIT D

CALCULATION FORMULA

To calculate the average annual cost of living increase in total compensation provided for all fire suppression non-management personnel, the following shall apply:

Total Compensation refers to the amount Santa Clara County Central Fire Protection District provides for base monthly wage at top step for a 56-hour Firefighter/Engineer, plus the employer's share of Kaiser Medical and Delta Dental.

At the subsequent July 1, the sum of the dollar change in monthly base wage, plus the dollar change in the employer's share of Kaiser Medical, plus the dollar change in the employer's share of Delta Dental since the prior July 1, will be divided by the sum of the monthly base wage, plus the employer's share in Kaiser Medical, plus the employer's share of Delta Dental effective on the prior July 1, to derive a percentage change in total compensation.

EXHIBIT E
FORMER CITY FIRE PERSONNEL

<u>Name</u>	<u>Job Title</u>
Jessup, Craig	Battalion Chief
Finck, Wally	Fire Captain
Buchan, Thomas	Fire Captain
Burns, Manny	Fire Captain
Ciraulo, Gene	Fire Captain
Stocks, David	Fire Captain
Xavier, Jim	Fire Captain
Becker, John	Firefighter/Engineer
Freeze, John	Firefighter/Engineer
Jonkey, Paul	Firefighter/Engineer
Kosinski, James	Firefighter/Engineer
Law, Bruce	Firefighter/Engineer
Wess, Bob	Firefighter/Engineer



CITY COUNCIL STAFF REPORT

MEETING DATE: June 15, 2005

Agenda Item #2

Prepared By:

**Community
Development
Director**

Submitted By:

City Manager

AGREEMENT WITH “CIRCA: HISTORIC PROPERTY DEVELOPMENT” TO PREPARE HISTORIC CONTEXT STATEMENT FOR THE CITY OF MORGAN HILL

RECOMMENDED ACTION(S): By motion, approve and authorize execution of the Agreement.

EXECUTIVE SUMMARY:

The California Environmental Quality Act (CEQA) requires assessment of impacts on historic resources. A historic resource is defined as a building, structure or object that has all of the following:

- Age (usually at least 50 years old)
- Integrity (retains location, design, setting, materials, workmanship, feeling and association; in a way that conveys reason for significance)
- Significance

The question of significance can be difficult to determine. The resource must be determined to be significant for one of the following reasons:

- Associated with events that have made a significant contribution to broad patterns of local, regional, State or national history
- Associated with the lives of persons important to local, California or national history
- Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master, or possesses high artistic values
- Has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.

A historic context statement provides the foundation for decisions about identification, evaluation, registration and treatment of historic properties. It will describe the significant broad patterns of development that have occurred in Morgan Hill, in order to provide a context for relating a property or structure to a significant theme of Morgan Hill’s history, architecture, archeology, engineering and cultural past.

Having a completed historic context statement will make it easier for property owners, city staff, and decisionmakers to know whether a structure is not just old, but is significant. This will expedite CEQA determinations, should reduce the number of individual historic assessments that must be prepared, and will provide a basis for updating the historic survey and ordinance once the context statement is completed.

FISCAL IMPACT: The Redevelopment Agency budgeted for this study during FY 2004-05, and \$35,000 is available from the Redevelopment Agency Contract Services account number 317-8010-82231.

**CONSULTANT AGREEMENT
NAME OF CONSULTANT**

THIS AGREEMENT is made this 15th day of June, 2005, by the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and Circa: Historic Property Development, a California sole proprietorship ("CONSULTANT").

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to City Council approval on June 15, 2005.
2. CONSULTANT is qualified by virtue of experience, training, education, and expertise to accomplish these services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term of Agreement.** This Agreement shall cover services rendered from June 20, 2005 until March 31, 2005.
2. **Services to be Provided.** The services to be performed by CONSULTANT shall consist of those tasks identified in the Scope of Work in Exhibit A, attached and incorporated herein by this reference, related to completion of a Morgan Hill Historic Context Statement.
3. **Compensation.** CONSULTANT shall be compensated as follows:
 - 3.1. **Amount.** Compensation under this Agreement shall be based on time and materials, and not exceed \$35,000.
 - 3.2. **Payment.** For work under this Agreement, payment shall be made per monthly invoice. For extra work not a part of this Agreement, written authorization by CITY will be required, payment shall be based on hourly rates in Exhibit "B" attached and incorporated herein by this reference.
 - 3.3. **Records of Expenses.** CONSULTANT shall keep accurate records of payroll, travel, and expenses. These records will be made available to CITY.
 - 3.4. **Termination.** CITY and CONSULTANT shall have the right to terminate this Agreement, without cause, by giving fifteen (15) days' written notice.
4. **Insurance Requirements.**
 - 4.1. **Commencement of Work.** CONSULTANT shall not commence work under this Agreement until it has obtained CITY approved insurance. For general liability and automobile insurance policies, CONSULTANT shall provide CITY, prior to commencement of work, with a separate endorsement which states that the policy contains the following language:

- The CITY, its elected officials, officers, employees, agents and representatives are named as additional insureds; and,
- the insurer waives the right of subrogation against CITY and CITY'S elected officials, officers, employees, agents, and representatives; and,
- insurance shall be primary non-contributing.

CONSULTANT shall furnish CITY with copies of all policies or certificates subject to this Agreement, whether new or modified, promptly upon receipt. No policy subject to this Agreement shall be cancelled or materially changed except after thirty (30) days' notice by the insurer to CITY by certified mail.

4.2. Workers Compensation Insurance. CONSULTANT and all subcontractors shall maintain Worker's Compensation Insurance, if applicable.

4.3. Insurance Types and Amounts. CONSULTANT shall maintain general commercial liability and automobile insurance against claims and liabilities for personal injury, death, or property damage, providing protection of at least \$1,000,000 for bodily injury or death to any one person for any one accident or occurrence and at least \$1,000,000 for property damage. CONSULTANT shall also maintain professional liability insurance in an amount of \$1,000,000 per claim.

4.4. Acceptability of Insurers. All insurance required by this Agreement shall be carried only by responsible insurance companies licensed to do business in California. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

4.5. Provision of Agreement to Insurers. CONSULTANT represents and warrants that they have provided a copy of this Agreement to their respective insurers, and the insurers are aware of all obligations pertaining to CONSULTANT as stated in this Agreement.

5. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable for any default or liability under this Agreement.

6. **Non-Discrimination.** CONSULTANT covenants there shall be no discrimination based upon race, color, creed, religion, gender, marital status, age, disability, national origin, or ancestry, in any activity pursuant to this Agreement.

7. **Independent Contractor.** It is agreed to that CONSULTANT shall act and be an independent contractor and not an agent or employee of CITY.

8. **Compliance with Law.** CONSULTANT shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.

9. **Ownership of Work Product.** All documents or other information developed or received by CONSULTANT for work performed under this agreement shall be the property of CITY. CONSULTANT shall provide CITY with copies of these items upon demand or upon termination of this Agreement.

10. **Conflict of Interest and Reporting.** CONSULTANT shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.

11. **Notices.** All notices shall be personally delivered or mailed, via first class mail to the below listed address. These addresses shall be used for delivery of service of process. Notices shall be effective five (5) days after date of mailing, or upon date of personal delivery.

Address of CONSULTANT is as follows:

Sheila McElroy
Circa: Historic Property Development
One Sutter Street Suite 910
San Francisco, CA 94104

Address of CITY is as follows:

Community Development Director	with a copy to:
City of Morgan Hill	City Clerk
17555 Peak Avenue	17555 Peak Avenue
Morgan Hill, CA 95037	Morgan Hill, CA 95037

12. **CONSULTANT'S Proposal.** This Agreement shall include CONSULTANT'S proposal or bid, which is incorporated herein. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.

13. **Licenses, Permits, and Fees.** CONSULTANT shall obtain a City of Morgan Hill Business License, all permits, and licenses as may be required by this Agreement.

14. **Familiarity with Work.** By executing this Agreement, CONSULTANT warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the difficulties and restrictions of the work under this Agreement. Should CONSULTANT discover any conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY and shall not proceed, except at CONSULTANT'S risk, until written instructions are received from CITY.

15. **Time of Essence.** Time is of the essence in the performance of this Agreement.

16. **Limitations Upon Subcontracting and Assignment.** Neither this Agreement nor any portion shall be assigned by CONSULTANT, without prior written consent of CITY.

17. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement.

18. **Indemnification.** CONSULTANT agrees to protect, defend and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including reasonable attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, to the extent arising out of performance of the Agreement by CONSULTANT, CONSULTANT'S agents, officers, employees, subcontractors, or independent contractors

hired by CONSULTANT. The only exception to CONSULTANT'S responsibility to protect, defend, and hold harmless CITY is due to the sole negligence of CITY as adjudged by a court of competent jurisdiction. This agreement shall apply to all liability, regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONSULTANT.

19. **Modification**. This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified or provisions waived only by subsequent mutual written agreement executed by CITY and CONSULTANT.

20. **California Law**. This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the Santa Clara County Superior Court.

21. **Interpretation**. This Agreement shall be interpreted as though prepared by both parties.

22. **Preservation of Agreement**. Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

ATTEST:

THE CITY OF MORGAN HILL

City Clerk

Date: _____

City Manager

Date: _____

APPROVED:

“CONSULTANT”

Risk Manager

Date: _____

By:

Date: _____

APPROVED AS TO FORM:

City Attorney

Date: _____

EXHIBIT A

Scope of Work

Decisions about the identification, evaluation, registration and treatment of historic properties are most reliably made when the relationship of individual properties to other similar properties is understood. Information about historic properties representing aspects of history, architecture, archeology, engineering and cultural themes must be collected and organized to define these associations. The **Historic Context Statement** will provide the city of Morgan Hill identified areas of significance. Our comprehensive approach will describe the significant broad patterns of development in an area that may be represented by historic properties. The historic context statement is the foundation for decisions about identification, evaluation, registration and treatment of historic properties. The purpose of the statement is to 1) have a means by which to properly survey, evaluate and complete the State of California Department of Parks and Recreation forms, and 2) provide the City with parameters to make preservation-related decisions.

Tasks involved with developing the Historic Context Statement include the following:

- **Informational Meeting and Tour:** Meet with Planning staff to confirm existing information, identify potential contexts, discuss potential areas of significance and themes, and identify any issues that may arise during the process. An area tour is planned for the team.
- **Data Collection Phase I:** The City of Morgan Hill has many helpful studies that will be made available as well as capable volunteers to assist with background material, and primary and secondary research for the Context Statement. Circa will review the existing primary and secondary data and research additional information.
- **Develop Historic Context Framework (administrative draft):** Initial context themes, time periods and areas of significance that have been identified to date will be organized and developed. Using descriptive text and a simple matrix format, draft contexts within time periods and proposed areas of significance within those contexts will be developed for review.
- **Conduct Study Session:** Circa will review the administrative draft with staff, members of the Planning Commission and public to discuss any changes to the Statement, areas needing further development and/or new areas of study for the context.
- **Data Collection Phase II:** Continue research and data gathering based on suggestions developed in the study session.
- **Develop Second Draft of Contexts:** Expand draft contexts and the applicable areas of significance within those contexts based on research and suggestions from the Study Session.
- **Identify Representative Properties:** Once the contexts have been developed

representative properties will be photographed and used as to illustrate the contexts.

- **Report Development:** Development of submittal report
- **Attend Public Hearings (two):** Review and comment on the Context Statement Amendments as part of the public participation process. We assume our attendance at public hearings would involve about 2-3 hours each (for one person to attend).
- **Finalize Context Statement:** Revise Context Statement Amendments per comments during the public participation process.

EXHIBIT B

FEES AND BILLING

The hourly rates for Circa: Historic Property Development follows:

Principal:	\$110.00 per hour
Research and Technical Writing:	\$ 75.00 per hour
Clerical:	\$ 45.00 per hour

Invoices will be sent on a monthly basis and are upon within 30 days of receipt.



CITY COUNCIL STAFF REPORT

MEETING DATE: June 15, 2005

TITLE: AGREEMENT BETWEEN THE CITY AND INDEPENDENCE DAY, INC. TO CO-SPONSOR THE JULY FOURTH CELEBRATIONS

RECOMMENDED ACTION(S):

Authorize the City Manager to sign the co-sponsorship agreement with Independence Day Inc.

EXECUTIVE SUMMARY: In recent years, the City Council has directed staff to negotiate an agreement with Independence Day Inc. (IDI), to co-sponsor the July Fourth Celebrations. These events include the Golf Tournament, the July 3rd Patriotic Sing and Street Dance, as well as the July 4th 5K Run, Parade, afternoon Family Festival and evening Fireworks Display. In return, I.D.I. agrees to name the City as a co-sponsor in promoting all of these events. Attached is the agreement for 2005, in which the City will provide supplementary insurance coverage for all of the named events. The City will contribute a combination of funding and in-kind services not to exceed \$ 25,000.00.

This year the City plans to appropriate \$ 11,000.00 in cash contribution from the community promotions budget for the July Fourth event. The City will also allow for an in-kind contribution of services to be determined based on costs associated with police and public works participation in the event. Police, Public Works and Recreation Department costs associated with this year's event are preliminarily estimated at approximately \$12,000.00 based on salary adjustment estimates.

Last year the City provided I.D.I with a total cash and in-kind contribution of approximately \$25,000.00. Included in this amount the City provided cash contributions estimated at \$12,000.00 to support other costs incurred by I.D.I. These service costs included; Santa Clara County Fire Department services, private security services to supplement police services, ABC licenses, fencing and other items that were required to produce a public event.

The actual agreement for the July 4, 2005, event will be similar to the past agreements and will call for:

1. The Patriotic Sing, the 5k Run, the Parade, and the evening Fireworks Display, which will again be held at Community Park.
2. Upon approval of the agreement, the City will provide a cash advance to I.D.I. of \$11,000.00.
3. IDI must provide a City approved insurance as part of the agreement
4. After submission of financial reports and all City established reporting requirements by I.D.I. no later than August 5, 2005, the City shall provide I.D.I. the balance remaining between the total contribution, less the cash advance and the value of the actual City in-kind services which were provided.

FISCAL IMPACT: Co-sponsorship of the July Fourth Celebrations is included in the FY 04-05 General Fund Community Promotions budgets (010-1220). The total City contribution is estimated at approximately \$23,000.00 for this year's event.

Agenda Item # 3

Prepared By:

Joe G. Sampson
Lieutenant

Approved By:

Chief of Police

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT
MEETING DATE: JUNE 15, 2005

Agenda Item # 4

Prepared By:

**Recreation &
Community Services
Manager**

Submitted By:

City Manager

AQUATICS CENTER OPERATING POLICIES

RECOMMENDED ACTION(S): Approve current policies regarding the required wearing of swim diapers for those under three years of age and all bags are subject to search upon entering the facility.

EXECUTIVE SUMMARY:

The Morgan Hill Aquatics Center adopted two policies that City Council has asked to be returned for further review. The policies in question were the requirements for swim diapers and the bag search policy.

Staff has attached a memo outlining the reasoning for the stated policies and based on last year's application of the policies make the following recommendations:

1. Children under the age of three years are required to wear a swim diaper.
2. All bags entering the facility will be subject to search.

Staff believes that the requirement for the use of swim diapers will minimize the amount of closed pool time due to incidents. The bag search requirements have been broadened in response to customer complaints and the need to expedite the entrance lines.

FISCAL IMPACT: Customer service should be enhanced resulting in returning paying patrons.



CITY COUNCIL STAFF REPORT
MEETING DATE: June 15, 2005

Joint Powers Agreements (JPA) between County of Santa Clara and the City of Morgan Hill for Continuance of the Community Development Block Grant (CDBG) Program.

RECOMMENDED ACTIONS:

Adopt Resolution authorizing the City Manager to do everything necessary to execute and implement the Joint Powers Agreement (JPA) with the County of Santa Clara for the City's continuing participation in the County's CDBG Program.

EXECUTIVE SUMMARY: Since 1979, the City of Morgan Hill has participated in the County of Santa Clara's Community Development Block Grant Program (CDBG). Over the years, the City has used its monies to fund public service activities such as the El Toro Youth Center, Senior Ombudsman Program, Senior Nutrition Program, and Senior Adult Day Services Program which benefit Morgan Hill residents at or below lower income. Non-public service activities funded with CDBG include ADA park improvements and improvements to Galvan Park.

Attached is the new HUD approved City/County JPA which will obligate the City to participate in the program from October 1, 2005 through September 30, 2008. The JPA typically runs for three years. Without the JPA, the City would be ineligible to receive CDBG funds through the County and would need to compete for funds through the State program.

FISCAL IMPACT: The JPA will allow the City to continue receiving approximately \$165,000 annually in CDBG funds for the next three years.

Agenda Item # 5

Prepared By:

Municipal Services Assist.

Submitted By:

BAHS Director

Approved By:

City Manager

RESOLUTION NO:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AUTHORIZING THE CITY MANAGER TO ENTER INTO A JOINT EXERCISE OF POWERS AGREEMENT AND COOPERATION AGREEMENT TO UNDERTAKE OR TO ASSIST IN THE UNDERTAKING OF ESSENTIAL ACTIVITIES PURSUANT TO TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED FOR THE PERIOD OF OCTOBER 1, 2005 - SEPTEMBER 30, 2008

WHEREAS, Congress has enacted the Housing and Community Development Act of 1974, as amended;

WHEREAS, Title I of the Act provides for a program of Community Development Block Grants;

WHEREAS, Title I of the Act makes entitlement grants available to cities with a population of 50,000 or more persons and to counties that qualify as an urban county;

WHEREAS, the City of Morgan Hill is not eligible to apply directly for entitlement funds under the Act but may, by entering into a cooperation agreement with County, qualify County as an urban county applicant and may thereby receive such funds;

WHEREAS, the parties hereto wish to enter into an agreement to enable the County of Santa Clara to apply for and receive entitlement funds as an urban county and to establish the respective rights and obligations of the contracting parties to such funds;

NOW, THEREFORE, BE IT RESOLVED that the City of Morgan Hill does hereby authorize the City Manager to enter into a Joint Exercise of Powers Agreement and Cooperation Agreement with the County of Santa Clara. To Undertake or to Assist in the Undertaking of Essential Activities Pursuant to Title I of the Housing and Community Act of 1974, as Amended for the Period of October 1, 2005 – September 30, 2008.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 15th Day of June, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. _____, adopted by the City Council at a Regular Meeting held on June 15, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *June 15th, 2005*

INDOOR RECREATION CENTER PROJECT – MAY CONSTRUCTION PROGRESS REPORT

RECOMMENDED ACTION(S): *Information Only*

EXECUTIVE SUMMARY:

Previous Council action awarded the contract for construction of the Indoor Recreation Center Project to West Coast Contractors, Inc. At that time, staff informed Council that we would report monthly on the progress of the construction. Attached is the progress report for the month of May. This report has been sent to our webmaster for posting on the City's website.

The contractor was prompt in mobilizing and clearing the site. They have already completed a majority of the rough grading. Nova Partners, the City's construction management team, has set up their trailer and are currently awaiting DSL service from Verizon in order to activate the webcam. The Ground Breaking event on May 31, 2005 was a great success! Barring any unforeseen circumstances, the anticipated Grand Opening is September 5, 2006. The project is currently on schedule and within budget.

FISCAL IMPACT: None

Agenda Item # 6

Prepared By:

Project Manager

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: JUNE 15, 2005

ACCEPTANCE OF SIGNING AND STRIPING FOR CLASS II BIKEWAYS PROJECT

RECOMMENDED ACTION(S):

1. Approve change order in the amount of \$4,160 for additional pavement widening at Dunne Avenue and Gallop Drive to allow for bike lanes.
2. Appropriate \$5,300 from the current year un-appropriated Street Fund balance to cover non grant related costs.
3. Accept as complete the Signing and Striping for Class II Bikeways project in the final amount of \$76,053.
4. Direct the City Clerk to file the attached Notice of Completion with the County Recorder's Office.

EXECUTIVE SUMMARY:

On October 27, 2004, City Council Awarded the Signing and Striping for Class II Bikeways grant project to Linear Options. The scope of the work for this project includes installing class II bike lane striping and markings along portions of Monterey Road, Cochrane Road, Sutter Boulevard, Butterfield Boulevard, and Dunne Avenue.

On January 19, 2005, City Council approved a change order for \$14,500 for additional striping removal and upgrading the existing bike lane striping along Butterfield Boulevard and portions of Dunne Avenue to meet Caltrans Class II bike lane standards. This action brought the Contract total to \$71,953.

During pavement widening work on Dunne Avenue near Gallop Drive, it was discovered that additional widening was necessary to properly extend the bike lane to Gallop Drive. Linear Options, Inc. performed the extra work; therefore, Staff recommends that Council approve the change order for \$4,160 to cover the additional pavement work. The final construction cost totaled \$76,053 and the work was substantially completed by March 29, 2005 in accordance with the Contract, Plans and Specifications.

FISCAL IMPACT:

The total construction cost for this project (#533004) is \$76,053. The BTA grant project reimbursement ratio is 80%. Funding of \$54,500 was previously appropriated to cover non grant related costs; however, an additional \$5,300 is needed from the un-appropriated Street Fund balance to complete the City's funding obligation for this project.

Agenda Item #7

Prepared By:

Associate Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

Record at the request of
and when recorded mail to:

CITY OF MORGAN HILL
CITY CLERK
17555 Peak Avenue
Morgan Hill, CA 95037

RECORD AT NO FEE PURSUANT TO GOVERNMENT CODE SECTION 27383

NOTICE OF COMPLETION
CITY OF MORGAN HILL

SIGNING AND STRIPING FOR CLASS II BIKEWAYS

NOTICE IS HEREBY GIVEN, pursuant to Section 3093 of the Civil Code of the State of California, that the Director of Public Works of the City of Morgan Hill, California, on the 6th day of December, 2004, did file with the City Clerk of said City, the contract for performing work which was heretofore awarded to Linear Options, Inc. on October 27, 2004, in accordance with the plans and specifications for said work filed with the City Clerk and approved by the City Council of said City.

That said improvements were substantially completed on October 14, 2004, accepted by the City Council on June 15, 2005, and that the name of the surety on the contractor's bond for labor and materials on said project is Linear Options, Inc. as Principal and Indemnity Company of California as Surety.

That said improvements consisted of the construction and installation of all items of work provided to be done in said contract, all as more particularly described in the plans and specifications therefor approved by the City Council of said City.

Name and address of Owner: City of Morgan Hill
17555 Peak Avenue
Morgan Hill, California

Dated: _____, 2005.

Jim Ashcraft, Director of Public Works

I certify under penalty of perjury that the foregoing is true and correct.

Irma Torrez, City Clerk
City of Morgan Hill, CA
Date:



CITY COUNCIL STAFF REPORT

MEETING DATE: June 15, 2005

AWARD OF CONTRACT TO PROVIDE PLAN CHECKING SERVICES ON AN AS-NEEDED BASIS

RECOMMENDED ACTION(S):

1. Approve FY 05-06 professional services contract with Harris & Associates to provide contract plan checking services on an as-needed basis at a not-to-exceed fee of \$126,000, subject to adoption of the FY 05-06 budget.
2. Authorize the City Manager to execute the contract, subject to review and approval by the City Attorney.

EXECUTIVE SUMMARY: Private development activity and its associated workload continue to extend beyond what the current staff is capable of reviewing. As such, additional assistance is needed to process the plans quickly to meet the State statutes for plan review and provide services to guarantee the improvements are designed to City standards.

The City negotiated with Harris and Associates due to the expertise they have shown over the past six years in processing land development applications for the City of Morgan Hill. City staff believes that they will provide the best services for the projected costs. As in the past, it is anticipated that Harris personnel will continue to be used on a three day a week basis to assist City staff with the processing of land development applications. The funds to pay for these services are collected from the fees paid for land development processing.

FISCAL IMPACT: The contract cost for the contract plan checking services is \$126,000 and will be funded from our Contract Services sub-account in the Public Works Community Development Engineering account.

Agenda Item # 8

Prepared By:

Senior Civil Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: JUNE 15, 2005

APPROVE DISADVANTAGED BUSINESS ENTERPRISE (DBE) ANNUAL GOAL

RECOMMENDED ACTION(S):

1. Approve the City's Disadvantaged Business Enterprise Annual overall DBE goal of 3.2% for the Federal Fiscal Year 2004/2005, beginning on October 1, 2004 and ending on September 30, 2005.

EXECUTIVE SUMMARY: The City of Morgan Hill has established a DBE program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City of Morgan Hill has and will continue to receive Federal financial assistance from the DOT, and as a condition of receiving this assistance the City of Morgan Hill must assure compliance with 49 CFR Part 26.

For Fiscal Year 2002-2003, the City had no Federal projects that were accepted by Council which included DBE goals. For Fiscal Year 2003-2004, City Council accepted three projects with DBE goals of 5.7%. They are; (1) Main/UPRR Crossing project achieving 2% DBE participation, (2) Monterey/UPRR Pedestrian Improvement project achieving 6% DBE participation, and (3) Butterfield Linear Park project achieving 66% DBE participation.

Title 49 of the Code of Federal Regulations Part 26, and as described in Caltrans' *Local Assistance Procedures Manual*, establishes policies that the City used to set an overall DBE goal of 3.2%. To establish the base figure, the City of Morgan Hill has elected to utilize the Caltrans DBE Directory of certified firms per NAICS codes, filtered to represent only DBE firms within the City of Morgan Hill's relevant market area. The County Census Bureau Data, within the same geographical market area was used to calculate the total number of businesses for the same NAICS codes.

The City of Morgan Hill published a Public Notice in the Morgan Hill Times, Nuevo Mundo (Spanish language) newspapers and the Daily Construction Service publication, announcing the City of Morgan Hill's proposed overall annual goals for the FY 2004-2005 contracts assisted by Fair Practices Act. Such Notice informed the public that the proposed goals and their rationale were available for inspection at the City of Morgan Hill during normal business hours for 30 days following the date of the Public Notice (April 23, 2005). Also, the notice informed the public that the City of Morgan Hill and FHWA accepted comments on the goals for 45 days from the date of the Public Notice (until June 7, 2005). No comments were received during the review periods.

FISCAL IMPACT: None

Agenda Item # 9

Prepared By:

Associate Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT
MEETING DATE: June 15, 2005

**AMENDMENT TO CONTRACT PROVIDING PUBLIC
WORKS INSPECTIONS ON AN AS-NEEDED BASIS**

RECOMMENDED ACTION(S):

1. Approve amendment to the contract with Testing Engineers, Inc. (TEI) to increase the contract amount by \$15,000.
2. Authorize the City Manager to execute the contract amendment, subject to City Attorney review.

Agenda Item # 10

Prepared By:

**Deputy PW Director -
Engineering**

Approved By:

Public Works Director

Submitted By:

City Manager

EXECUTIVE SUMMARY: Staff utilizes Testing Engineers, Inc. (TEI) to provide construction inspection services and materials testing for street and utility projects.

On July 7, 2004, the City Council approved a contract with TEI for \$90,000 to assist Public Works inspection staff on an as needed basis to ensure that all public improvements associated with development and CIP projects are installed properly and that delays in the construction projects are minimized. At that time staff estimated that the contract would cover inspection services for the entire fiscal year. However, due to a large number of both capital improvement and land development projects this past fall and winter the contract funds have been expended sooner than anticipated. Therefore, an additional \$15,000 is needed to cover the cost of critical inspection services for the balance of the fiscal year. The funds to pay for these services are collected from the fees paid for land development processing or from budgeted CIP project accounts.

FISCAL IMPACT: The additional contract cost for the contract inspection services is \$ 15,000 and will be funded from FY 04/05 Contract Services sub-account in the Public Works Community Development Engineering and Public Works Capital Improvement Program accounts. The contract costs are split with 50% assigned to Fund 206.5410.42231 and 50% assigned to Fund 745.8280.42231.



CITY COUNCIL STAFF REPORT

MEETING DATE: June 15, 2005

APPROVE PURCHASE FOR GENERATOR ENCLOSURE AND TRAILER FOR LLAGAS BOOSTERS

RECOMMENDED ACTION(S):

1. Approve purchase of a generator enclosure and trailer for Llagas Boosters from Quinn Power System.
2. Approve purchase order of \$30,485.81 to Quinn Power System for the enclosure and trailer.

EXECUTIVE SUMMARY:

In fiscal year 2003-2004 Public Works Utility Division purchased a 125kw Skid Mounted Diesel Fueled generator from the Police Department for the purpose of utilizing onsite generator at Llagas Boosters for emergency power source.

Upgrading the generator to a trailer mounted unit with a sound attenuated weather proof outdoor enclosure will not only supply back-up emergency power to Llagas Boosters where it will be located, but will have the capability to be utilized at other water pumping facilities when needed.

A request for proposal for the purchase and installation of this equipment was held on May 31, 2005. The results are as follows:

Quinn Engine Systems	\$30,485.81
Peterson Power System, Inc.	\$62,826.00

Staff is confident the low bid submitted by Quinn Engine Systems is a good bid and meets specifications. Staff recommends the purchase from Quinn Engine Systems, who is also the original vendor that the unit was purchased from by the Police Department in 2002.

FISCAL IMPACT:

Funding for this purchase is available in the FY04-05 Water Budget.

Agenda Item #11

Prepared By:

Management Analyst

Approved By:

Department Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: June 15, 2005

PUBLIC WORKS MAINTENANCE AGREEMENTS FOR FY 2005/2007

RECOMMENDED ACTION(S):

1. Approve new maintenance agreements for: ¹Service Repair for Sewer Lift Station Pumps and Storm Station Pumps, ²Generator Maintenance Services.
2. Authorize the City Manager to execute the agreements on behalf of the City.

EXECUTIVE SUMMARY: Request for Proposal processes were held to award new contracts for Maintenance Services. The current contracts end on June 30, 2005. Staff recommends approval of new two year contracts as follows:

1. Service Repair for Sewer Lift Station Pumps and Storm Station Pumps: Peninsula Pumps was the only bidder. They have served the City as a vendor for several years. They are available on weekends and holidays. Staff requests award of contract based upon time and equipment rates submitted. (\$30,000/yr, 2 years)
2. Generator Maintenance Services: Peterson Power Systems was the successful bidder. Peterson Power has provided sales, rentals, repair and service to the City for several years. Staff recommends approval of this contract based upon the rates submitted. (\$22,000/yr, 2 years)

FISCAL IMPACT: Contingent upon Council approval, funding exists for these agreements in the FY 2005/06 budgets of the Public Works, Police, and Community Development Departments.

Agenda Item # 12

Prepared By:

Management Analyst

Approved By:

Department Director

Submitted By:

City Manager



Memorandum Public Works Department

DATE: June 8, 2005
TO: Jim Ashcraft, Public Works Director
FROM: Louise A. Eichhorn, Management Analyst
SUBJECT: FUNDING SOURCES FOR PUBLIC WORKS MAINTENANCE AGREEMENTS

The following are account numbers identifying funds for our recommended FY 03/04 Budget to fund the attached maintenance contracts.

	Account Number	Allocation	Total Cost/Term
1. Peterson Power Systems	650-42231-5710	\$ 5,500	\$22,000/year
	650-42273-5710	5,500	(2 year contract)
	640-42231-5900	5,500	
	640-42273-5900	5,500	
	building or pd		
2. Peninsula Pumps	640-42231-5900	\$ 15,000	\$30,000/year
	640-42248-5900	5,000	(2 year contract)
	202-42231-6100	10,000	



CITY COUNCIL STAFF REPORT

MEETING DATE: June 15, 2005

FOURTH AMENDMENT TO AGREEMENT WITH THE STROMBOTNE LAW FIRM

RECOMMENDED ACTIONS:

Authorize the City Manager to execute a Fourth Amendment to Agreement with the Strombotne Law Firm.

EXECUTIVE SUMMARY:

On June 7, 2004, the City contracted with the Strombotne Law Firm to represent the City's interest in a construction dispute with Stevelle Construction Company, Inc., involving the new Morgan Hill Police Facility. The parties are attempting to reach a negotiated settlement. In the interim, nine subcontractors have filed suit against the City for enforcement of Stop Notices. The current contract in the amount of \$95,000 is insufficient to cover the fees and costs associated with continued negotiations of this matter and defending the City against the lawsuits filed by the subcontractors. The attached Fourth Amendment to Agreement is in the amount of \$145,000. It is anticipated that the additional \$50,000 will be sufficient to cover the anticipated fees and costs through the end of fiscal year 2005-2006. Therefore, staff is recommending that Council approve the attached Fourth Amendment to Agreement increasing the contract amount to \$145,000.

FISCAL IMPACT:

The cost of this amended agreement will be accommodated in the City Attorney's Office budget.

Agenda Item # 13

Prepared By:

(Title)

Submitted By:

City Manager

**FOURTH AMENDMENT TO AGREEMENT
STROMBOTNE LAW FIRM**

THIS AGREEMENT is made this ____ day of _____, 2005, by the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and, STROMBOTNE LAW FIRM, a professional corporation ("CONSULTANT").

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into based upon City of Morgan Hill City Council approval on _____.
2. CITY desires to amend the CONSULTANT AGREEMENT dated June 7, 2004, and amended on August 10, 2004, October 12, 2004, and April 27, 2005, attached as Exhibit "A" to this Agreement and incorporated herein.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. Term and Condition of Original Agreement. All terms and conditions contained in Exhibit "A" are to remain in full force and effect with the sole exception of the terms listed below:
 1. Term of Agreement. This Agreement shall cover services rendered from May 1, 2004, until June 30, 2006.
 4. Compensation: CONSULTANT shall be compensated as follows:
 - 4.1 Amount. Compensation for all services, fees and expenses under this Agreement shall not exceed ONE HUNDRED FORTY-FIVE THOUSAND AND NO/100 DOLLARS (\$145,000.00). Compensation shall be on an hourly billing rate, which rates are set forth in Exhibit "B," attached hereto and incorporated herein by reference. No rate changes shall be made during the term of this agreement without prior written approval from the CITY.

ATTEST:

THE CITY OF MORGAN HILL

City Clerk

Date: _____

City Manager

Date: _____

APPROVED:

STROMBOTNE LAW FIRM

Risk Manager

Date: _____

By:

Date: _____

APPROVED AS TO FORM:

JORGENSEN, SIEGEL, McCLURE & FLEGEL, LLP

By: _____

Interim City Attorney

Date: _____



CITY COUNCIL STAFF REPORT

MEETING DATE: June 15, 2005

Agenda Item # 14

Prepared By:

Tina M. Reza

Approved By:

**Human Resources
Director**

Submitted By:

City Manager

RESOLUTION AUTHORIZING THE CITY OF MORGAN HILL TO ENTER INTO AN AGREEMENT WITH PUBLIC AGENCY RETIREMENT SERVICES TO PROVIDE AN ALTERNATE RETIREMENT SYSTEM FOR TEMPORARY AND SEASONAL EMPLOYEES AND ELECTED OFFICIALS

RECOMMENDED ACTION: Adopt Resolution.

EXECUTIVE SUMMARY:

The City of Morgan Hill is required, on behalf of each temporary and seasonal employee and elected official, to contribute to Social Security an amount equal to 6.2% of his or her salary, unless they are members of CalPERS. The employee also contributes 6.2% to Social Security for a total contribution of 12.4%. The United States Congress adopted the Omnibus Budget Reconciliation Act (OBRA) in 1990. OBRA mandated that employees not covered at the time by a retirement program be enrolled in either Social Security or an alternate system. The Public Agency Retirement Services (PARS) offers an alternate retirement system (ARS) that meets the statutory requirements as specified by Congress.

PARS is the third largest multiple employer public retirement system in California with over 300 member agencies including the Cities of Gilroy, Milpitas, Palo Alto, Campbell and Santa Clara.

Under PARS, employee contributions will slightly increase to 7.5%, the total required contribution. However, since PARS ARS contributions are on a pre-tax basis, the employee's check will reflect a net increase as compared to after-tax Social Security contributions. In addition, unlike Social Security, employees may withdraw their contributions upon termination. This feature is particularly attractive to the City's many seasonal workers.

As the plan administrator, PARS will ensure all temporary and seasonal employees (working less than 1,000 hours per fiscal year) and elected officials are enrolled. PARS provides training for Human Resources and Payroll staff to ensure the program is properly implemented. PARS will also monitor the program and generate and submit all required reports. Union Bank of California serves as the trustee for PARS ARS. The assets are held separately from the assets of Union Bank and cannot be accessed by creditors of either the trustee or the City.

FISCAL IMPACT:

Based on employment data from calendar year 2004, it is estimated that the City will realize a savings (cost reduction) of \$22,081 over Social Security in the first year. Cumulative savings are estimated to be \$118,346 over five years and \$257,798 over ten years.

ATTACHMENTS: Resolution

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MORGAN HILL AUTHORIZING THE CITY OF MORGAN
HILL TO ENTER INTO AN AGREEMENT WITH PUBLIC
AGENCY RETIREMENT SERVICES TO PROVIDE AN
ALTERNATE RETIREMENT SYSTEM FOR TEMPORARY
AND SEASONAL EMPLOYEES AND ELECTED OFFICIALS.**

WHEREAS, it is determined to be in the best interest of the City and its employees to provide a Qualifying Retirement System (“Deferred Compensation FICA Alternative Plan”) for all of its temporary and seasonal employees and elected officials not currently eligible for such a Qualifying Retirement System; and

WHEREAS, the City is eligible to be a member of the Public Agency Retirement Services (PARS) Trust which offers a qualifying Alternate Retirement System (ARS) for its temporary and seasonal employees and elected officials which meets the requirements of California Government Code Sections 53215-53224 and 20000, Omnibus Budget Reconciliation Act Section 11332 and Internal Revenue Code Sections 3121(b)(7)(F) and 457 and meets the meaning of the term “retirement system” as given by Section 218(b)(4) of the Federal Social Security Act;

THEREFORE, BE IT RESOLVED by the City Council of the City of Morgan Hill that:

The City Council hereby adopts the PARS Trust, including the PARS Section 457 FICA Alternate Retirement System (ARS), effective July 3, 2005, the effective date for the benefit of the temporary and seasonal employees and elected officials on that date and hired thereafter; and

The City Council hereby appoints the Human Resources Director as the City’s Plan Administrator for the PARS 457 Alternative Retirement System; and

The City Manager is hereby authorized to implement the plan, execute the documents and agreements, and take whatever actions are necessary to maintain the City’s participation in and compliance with rules and regulations governing the plan, and whatever actions are required to administer the City’s PARS 457 Alternate Retirement System.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 15th Day of June, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

🍷 CERTIFICATION 🍷

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on June 15, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: June 15, 2005

Agenda Item # 15

**Prepared/Approved
By:**

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1726, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA-05-01 FOR APPLICATION MP-04-26: COCHRANE-MISSION RANCH (APN 728-32-010)

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1726, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On June 1, 2005, the City Council Introduced Ordinance No. 1726, New Series, by the Following Roll Call Vote: AYES: Carr, Grzan, Kennedy, Tate; NOES: None; ABSTAIN: None; ABSENT: Sellers.

FISCAL IMPACT:

None. Filing fees were paid to the City to cover the cost of processing this application.

ORDINANCE NO. 1726, NEW SERIES

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORGAN HILL APPROVING
DEVELOPMENT AGREEMENT, DA-05-01 FOR
APPLICATION MP-04-26: COCHRANE-MISSION
RANCH (APN 728-32-010)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded a total of 48 building allocations for fiscal years 2006-2007, 2007-2008 thru 2008-2009 to that certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP 04-26: COCHRANE-MISSION RANCH	48

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 1st Day of June 2005, and was finally adopted at a regular meeting of said Council on the Day of June 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1726, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the q Day of June 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



REDEVELOPMENT AGENCY STAFF REPORT

MEETING DATE: *June 15, 2005*

FAÇADE IMPROVEMENT PROGRAM

RECOMMENDED ACTION(S):

Authorize the Executive Director to make the recommended changes to the Façade Improvement Program.

EXECUTIVE SUMMARY:

Since its inception in 1991, the Façade Improvement Program has provided assistance to over 65 properties, primarily in the Downtown. The Program provides financial assistance in the form of 50% rebates to property owners to improve the exterior appearance of their properties. In addition, the Program offers reimbursement for limited architectural design costs and full reimbursement of City Site and Architectural Review fees.

In 2000, the Redevelopment Agency approved modifications to the Program to 1) increase the amount for architectural design from \$1,500 to \$2,000; 2) expand the program to include the Dunne and Tennant Avenue corridors, 3) adopt one rebate formula, instead of a tiered approach, and 4) increase the maximum rebate amount to \$15,000 (for \$30,000 of improvements) from \$12,500.

In recent years, there have been several requests and approvals by the Agency for “double” or “triple” façade grants. These requests have been justified on the basis that the project involved prominent buildings (e.g., the Granary, Mama Mia’s), stand-alone buildings, buildings visible from two or more sides from public rights-of-way or from parking lots, and/or major public walkways. To streamline the program, staff recommends that the Agency approve modifications to the Program to allow for the approval of this type of request at the staff level (see Comparison of Current and Proposed Program Highlights, attached).

Specifically, the program modifications are as follows: 1) 50% rebates for up to \$90,000 of improvements for a maximum rebate amount of \$45,000; 2) \$2,000-\$4,000 for architecture/design costs based on a step system corresponding to improvement costs; 3) a 10-year façade Easement Agreement for rebates of \$30,000 to \$45,000, regardless of property location; and 4) projects with rebates of \$30,000-\$45,000 would need to meet the following criteria (rebates under \$30,000 would have no special requirements):

- The property contains a stand-alone building, a building with 2 or more stories, or contains features that distinguish it as a highly visible, prominent building, and
- The building has two or more sides visible from public rights-of-way, parking lots, and/or major public walkways.

The City Council’s Community and Economic Development Committee has reviewed these program modifications and recommends approval.

FISCAL IMPACT: Sufficient funds have been budgeted in the FY2005-06 317 (Economic Development Programs) budget to meet the estimated demand for the Program.

Agenda Item # 16

Prepared By:

BAHS Manager

Approved By:

BAHS Director

Submitted By:

Executive Director

FAÇADE IMPROVEMENT PROGRAM
Comparison of Current and Proposed Program Highlights
June 7, 2005

Current Program

- 50% rebates for up to \$30,000 of improvements; maximum rebate amount \$15,000
- \$2,000 for architecture/design costs
- Full reimbursement of City site and architectural review fees.
- Requires 5-year façade easement agreement for Downtown properties and 10-year agreement for properties outside of the Downtown

Proposed Changes

- 50% rebates for up to \$90,000 of improvements; maximum rebate amount is \$45,000
- \$2,000-\$4,000 for architecture/design costs based on a step system corresponding to improvement costs
- Full reimbursement of City site and architectural review fees
- Requests for rebates under \$30,000 (for under \$60,000 of improvements) have no special requirements
- Requests for rebates of \$30,000-\$45,000 (for \$60,000-\$90,000 of improvements) must meet the following criteria:
 - The property contains a stand-alone building, a building with 2 or more stories, or contains features that distinguish it as a highly visible, prominent building, and
 - The building has two or more sides visible from public rights-of-way, parking lots, and/or major public walkways.
- A 10-year façade Easement Agreement is required for rebates of \$30,000 to \$45,000, regardless of property location
- A 5-year façade Easement Agreement is required only for Downtown properties receiving rebates of \$30,000 or less

**CITY OF MORGAN HILL
JOINT REGULAR CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – JUNE 1, 2005**

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Grzan, Tate and Mayor/Chairman Kennedy
Absent: Council/Agency Member Sellers

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Police Corporal Melinda Zen led the Pledge of Allegiance.

RECOGNITIONS

Mayor Kennedy presented certificates of recognition to local citizens Juan R. Murillo, Arturo Pinacho, and Erica Cabrerra, commending them for their bravery in coming to the aid of others.

Mayor Kennedy presented retiring Parks & Recreation Commissioner Don Jensen with a gift in appreciation, acknowledgement, and gratitude for his service to the community on this Commission.

CITY COUNCIL REPORT

Council Member Grzan reported on the PL566, a vital flood control project to the community. He stated that a committee is working together with the Water District, indicating that there is a new application of a cost benefit ratio to the project and that it is much lower than anticipated. The Committee and the Water District will go back and review the calculations with the Army Corp of Engineers. He stated that the PL566 project is in jeopardy of funding, and the Committee will work toward a solution(s). He reported on the Financial Policy Committee, indicating that he is working closely with Mayor Pro Tempore Tate and members of City staff to look at a number of financial issues before the City. This Committee is working hard, including holding extra meetings, to try and develop a plan on how to address the City's fiscal crises. The Committee will be putting together a plan that focuses on a

conversation with the community that looks toward educating, informing, and asking them to participate in a decision making process on the financial crises. He indicated that the Committee will report back to the Council on June 15, 2005 with a preliminary plan on how to approach the issue(s).

CITY COUNCIL SUBCOMMITTEE REPORT

Council Member Carr indicated that the Public Safety and Community Services Committee, consisting of himself and Mayor Pro Tempore Tate, met earlier this evening with the Chairs or representatives from the Library Commission, Cultural & Arts Commissions, Parks & Recreation Commission, Bicycle & Trails Advisory Committee, Senior Advisory Committee and the Youth Advisory Committee, to discuss their work plans for the year, how they come up with their work plans, items they want to work on, and better ways that the Council can be involved in these processes.

CITY MANAGER REPORT

City Manager Tewes thanked the Council members for their attendance and participation in the ground breaking ceremonies held this week for the new 57,000 square foot indoor recreational facility that is under construction adjacent to Community Park. He stated that the facility will include a youth center, a senior center, a gymnasium, a fitness room, multi purpose rooms, a small auditorium, and an indoor pool. He indicated that this project is scheduled to open in September 2006. He informed the Council that the contractors are committed to staying on schedule and on budget. He reminded the Council and the community that on June 15, the City Council will include a public hearing on the proposed Fiscal Year 2005-06 budget. As recommended, the proposed budget reflects the Council's multi year budget strategy, and that this multi year budget strategy includes the need for additional resources over the long term. This will be the subject of a year long community conversation. He indicated that he, Council members and the Mayor participated in a basketball contest that would result in the winner having the first shot in the new gymnasium in September 2006, reporting that Council Member Carr was the winner of this contest.

CITY ATTORNEY REPORT

Interim City Attorney Siegel stated that he did not have a City Attorney's report to present this evening.

OTHER REPORTS

Mayor Pro Tempore Tate announced that the Youth Advisory Committee will be hosting an outdoor concert entitled "Roofless" this Saturday, June 4. He indicated that a variety of bands will be performing at the Community & Cultural Center Amphitheater from 4-8 p.m. He invited the community to attend this free community concert.

City Manager Tewes advised the Council and citizens in attendance this evening that item 12, relating to the Property Based Improvement District, and item 13, relating to the extension request for the Alcini subdivision improvement agreement, have been withdrawn from the agenda, temporarily, at the request

of the proponents of these two items. He indicated that these two items will return to the Council at a later date.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on this evening's agenda.

Mayor Kennedy indicated that he and his wife recently returned from a vacation trip to Ireland and Italy, paid at his expense. He stated that they visited the City's Sister City of San Casciano val di Pesa in the province of Florence. He indicated that San Casciano has a new mayor as former Mayor Pietro Roselli is now the president of the assembly in the province of Florence. He said that he met the new mayor, Señora Ornella Signorini, a nice individual who is dedicated to doing a professional job. Her husband is the City Manager for the City of Florence. He stated that he met a couple in Sienna who are good friends of the Eastmans, mutual friends.

No further comments were offered.

City Council Action

CONSENT CALENDAR:

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Grzan, the City Council, on a 4-0 vote with Council Member Sellers absent, **Approved** Consent Calendar Items 1-5, as follows:*

1. **PERFORMANCE MEASURE UPDATE - THIRD QUARTER FY 2004-2005**
Action: **Received** and **Filed**.
2. **APPROVE FINAL MAP FOR SAN PEDRO VILLAS PHASE III (TRACT 9695)**
Action: 1) **Approved** the Final Map; and 2) **Authorized** the Recordation of the Map following Recordation of the Development Improvement Agreement.
3. **ENVIRONMENTAL ASSESSMENT, EA-05-05: EDMUNDSON-INDOOR RECREATION CENTER (IRC) BIKE PATH**
Action: **Approved** Addendum to the Adopted Mitigated Negative Declaration for the Morgan Hill Community Indoor Recreation Center.
4. **ADOPT ORDINANCE NO. 1724, NEW SERIES**
Action: **Waived** the Reading, and **Adopted** Ordinance No. 1724, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A PRECISE DEVELOPMENT PLAN FOR PHASES 7, 8, 9 & 10 (81 UNITS) OF THE**

CAPRIANO/MADRONE CROSSING DEVELOPMENT. THE RESIDENTIAL DEVELOPMENT PLAN COVERS A 68 ACRE SITE LOCATED ON THE WEST SIDE OF MONTEREY ROAD, SOUTH SIDE OF TILTON AVENUE, ON THE EAST SIDE OF HALE AVE. (APN's 764-09-005, 006, 007, 008, 009, 010 & 014) .

5. ADOPT ORDINANCE NO. 1725, NEW SERIES

Action: Waived the Reading, and Adopted Ordinance No. 1725, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 04-08: TILTON-GLENROCK FOR APPLICATION MP-02-03: TILTON-GLENROCK (APNS 764-9-06, 16, 17, 32 & 33) .

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Mayor/Chairman Kennedy indicated that he would be abstaining from voting on consent calendar items 7 and 8.

Action: *On a motion by Mayor Pro Tempore/Vice-chairman Tate and seconded by Council/Agency Member Grzan, the City Council/Agency Board, on a 4-0 vote with Council/Agency Member Sellers absent, Approved Consent Calendar Item 6as follows:*

6. AGREEMENT WITH MORGAN HILL COMMUNITY FOUNDATION FOR HIRAM MORGAN HILL STATUE – Resolution No. MHRA 254 and Resolution No. 5909

Action: Adopted Redevelopment Agency Resolution No. MHRA-254 and City Council Resolution No. 5909, Authorizing the Executive Director to Execute an Agreement to Advance \$52,000 to the Morgan Hill Community Foundation Regarding the “Waiting for the Train” Statue.

Action: *On a motion by Mayor Pro Tempore/Vice-chairman Tate and seconded by Council/Agency Member Grzan, the City Council/Agency Board, on a 3-0-1 vote with Mayor/Chairman Kennedy abstaining and Council/Agency Member Sellers absent, Approved Consent Calendar Items 7 and 8 as follows:*

7. JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF MAY 20, 2005

Action: Approved the Minutes as Written.

8. JOINT SPECIAL AND REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF MAY 25, 2005

Action: Approved the Minutes as Written.

City Council and Redevelopment Agency Action

PUBLIC HEARINGS:

9. DEVELOPMENT AGREEMENT APPLICATION, DA-05-01: COCHRANE-MISSION RANCH – *Ordinance No. 1726, New Series*

Planning Manager Rowe presented the staff report on a request for approval of a development agreement for phases 9b, 10 and 11 of the Mission Ranch project.

Mayor Kennedy opened the public hearing. Dick Oliver, representing the applicant, indicated that the development agreement is for phases 9b, 10 and 11 of the Mission Ranch project. He indicated that he began this project in 1989 with the first allocation being awarded in 1994 and the first building constructed in 1996. He said that this project will go through 2 or 3 more competitions to complete the project, making this a 20-year project. He stated that good progress is being made toward project build out based on the initiatives in place and that he is pleased to be working under these initiatives. It is his hope that the Mission Ranch project is a development that the Council would like to see for the city. No further comments being offered, the public hearing was closed.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Sellers absent, Waived the reading in full of Ordinance No. 1726, New Series, the Development Agreement Ordinance.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council Introduced Ordinance No. 1726, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA-05-01 FOR APPLICATION MP 04-26: COCHRANE-MISSION RANCH (APN 728-32-010)**, by the following roll call vote: AYES: Carr, Grzan, Kennedy, Tate; NOES: None; ABSTAIN: None; ABSENT: Sellers.*

10. CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION TO ESTABLISH MONTEREY UNDERGROUND UTILITIES DISTRICT NO. 3 – DUNNE AVENUE TO COSMO AVENUE – *Resolution No. 5908*

Senior Civil Engineer Behzad introduced Yat Cho, project engineer; Rocco Colicchia, Harris & Associates, assisting with the formation of the Monterey Road Underground Utilities District No; and Karl Bjarke, Deputy Director of Public Works. She requested the Council conduct a public hearing and adopt a resolution establishing Monterey Underground Utilities District No. 3, 200 feet south of Dunne Avenue to Cosmo Avenue. She informed the Council that PG&E Rule 20A funds are being used for this project, established by the California Public Utility Commission in 1968 which requires all electrical utility companies to annually allocate underground conversion funding to communities. In order to utilize Rule 20A funding, the City needs to establish an underground utility district. She stated that a public informational meeting was held on March 16, 2005 with the property owners to be affected

by this project, reviewing the scope of the project and the construction schedule. On May 4, 2005, the Council directed staff to: 1) go back and notify all property owners of the required public hearing and 2) defined the boundary for the District. She informed the Council that all property owners affected by the District and all utility companies were notified 15 days prior to this public hearing date. Following tonight's Council action, staff will notify PG&E and other utility companies to commence with the design and move forward with undergrounding all utilities. She indicated that construction will not start until 18-24 months after formation of the District. She indicated that PG&E estimates that it will cost approximately \$1.7 million to complete this project, plus an additional \$118,000 to install the street lights and electroliers. Rule 20A funding for Morgan Hill is approximately \$1.2 million. However, the City has the ability to borrow funds for an additional 5 years, totalling \$500,000; plus the current \$1.2 million Rule 20A funding; totalling \$1.7 million. She informed the Council that the additional \$118,000 will be funded from the City's underground in lieu fee fund.

Council Member Grzan noted that the City will be borrowing 5 years worth of funding in the amount of \$500,000. He inquired how long it would take to proceed with another project.

Deputy Director of Public Works Bjarke said that the City will be able to collect enough aggregate funding in five years to pay for a number of big projects.

Ms. Behzad clarified that the City collects approximately \$118,000 in Rule 20A funding. There are also in lieu fees collected from developers that would be used for other projects. She informed the Council that staff is also working on the Depot Street underground utilities where staff is using in lieu fees. These are the two major projects the City is working on at this time.

Council Member Grzan inquired what other portions of Monterey Road are in need of undergrounding utilities.

Mr. Bjarke indicated that the City could use Rule 20A funding for any area in town that is heavily traveled by the public. He noted that there are overhead lines along Monterey Road from Old Monterey Road, south to Watsonville Road. At the rate funds are being accumulated, he said that it would take five years or more to collect enough funds to underground all utilities along Monterey Road.

Council Member Grzan felt that it would take approximately 17-18 years before the City can receive another \$1.7 million to proceed with the next "big project."

Ms. Behzad said that there are other sources of funding such as RDA funding, if certain criteria is/are met. If Rule 20A is the only source of funding, it will take several years before the City would have enough funding to start another project of this magnitude.

Mayor Kennedy inquired as to the process residential neighborhoods need to follow to underground overhead utilities.

City Manager Tewes said that there are other provisions in state law that allows the formation of improvement districts such that neighbors who wish to assess themselves with these costs could form an appropriate district.

Mr. Colicchia said that the Rules that PG&E follows to underground are broken up into three parts: A, B and C. Rule A is used for undergrounding utilities similar to this project. Rule B would be used to underground utilities in a residential neighborhood in areas that do not fall under Rule A. A residential neighborhood would need to decide whether it wants to form an assessment district to fund the project or fund it individually, everyone paying their fair share of the costs. He indicated that PG&E would not fund Rule B, but would provide a credit. PG&E would take the cost for undergrounding facilities and then credit an equivalent overhead system. A residential homeowner would pay approximately 75% and PG&E 25%. Rule C would be applied to small projects (e.g., less than 600 feet, less than a block, or a cul de sac). There may be 4-5 property owners who do not want to underground the entire street, only their particular area or one side of the street. Usually you want to proceed with Rule B as the credit would be more and both sides of the streets would be completed (aesthetics).

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Sellers absent, **Adopted** Resolution No. 5908, Establishing Monterey Underground Utilities District No. 3 - Dunne Avenue to Cosmo Avenue.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Sellers absent, **Directed** the City Clerk to Notify all Affected Utilities and All Persons Owning Real Property Within ten (10) Days after the Adoption of the Resolution.*

11. 2005 HAZARDOUS BRUSH PROGRAM COMMENCEMENT REPORT AND PUBLIC HEARING

Assistant to the City Manager Dile presented the staff report, indicating that the Santa Clara County Fire Department has identified three properties that are recommended for inclusion in the Brush Program. This means that County contractors will be responsible for abatement to be completed in June 2005. She indicated that staff will return to the Council on July 27, 2005 and present it with a list of property assessments for properties the County's contractors completed maintenance. She recommended that the Council adopt the 2005 Hazardous Brush Program Commencement Report, open/close the public hearing, and take any public comments from property owners who have concerns about being included in this year's program. She informed the Council that Melanie Chase with the County Fire Department was in attendance, should the Council have any questions.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Grzan, the City Council, on a 4-0 vote with Council Member Sellers absent, Accepted the report.*

City Council and Redevelopment Agency Action

OTHER BUSINESS:

12. PROPERTY BASED IMPROVEMENT DISTRICT (PBID)

City Manager Tewes informed the Council that this item would be re-agendized once the questions raised by the project proponents are addressed.

Action: *This item was pulled from the Agenda.*

City Council Action

OTHER BUSINESS:

13. ADDITIONAL TIME EXTENSION REQUEST FOR SUBDIVISION IMPROVEMENT AGREEMENT FOR ALCINI PARTNERSHIP/MAST AVENUE

City Manager Tewes informed the Council that this item would be re-agendized once the questions raised by the project proponents are addressed.

Action: *This item was pulled from the Agenda.*

14. JOINT CITY COUNCIL AND PLANNING COMMISSION WORKSHOP

Director of Community Development Molloy Previsich informed the Council that the Planning Commission is requesting a joint workshop to discuss proposed changes to the Residential Development Control System. Also, to discuss other related Downtown Area Plan topics. This meeting would also afford the opportunity to include discussion of the Planning Commission's work program. She noted that the staff report suggests a June 6 meeting date. In light of the cancellation of the Vierra appeal hearing, staff is requesting that the joint workshop be held on June 8 at 6:00 or 7:00 p.m. She requested that the Council identify which date/time works best.

City Manager Tewes informed the City Council that prior to leaving town, Council Member Sellers left him a note indicating that if the meeting was to be held on Monday, June 6, that the meeting be scheduled later in the evening as this is a difficult day and time for him to attend a meeting. Council Member Sellers was hopeful that Wednesday, June 8 date would work for the Council.

Mayor Pro Tempore Tate indicated that the Financial Policy Committee is planning to meet on Wednesday, June 8 at 5:30 p.m., and recommended that the workshop be scheduled for 7:00 p.m. on the

same day. This will allow the Financial Policy Committee to get ready for its report to the full Council on June 15.

Action: *By consensus, the City Council **Directed** Staff to Schedule a Joint Workshop with the Planning Commission on Wednesday, June 8, 2005 at 7:00 p.m.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Manager/Executive Director Tewes indicated that a closed session would not be necessary this evening.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 7:43 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY



CITY COUNCIL STAFF REPORT
MEETING DATE: JUNE 15, 2005

**DEVELOPMENT AGREEMENT AMENDMENT DAA-03-15:
EAST CENTRAL – WARMINGTON HOMES**

RECOMMENDED ACTION(S):

- (1) Open Public Hearing
- (2) Table Item

EXECUTIVE SUMMARY:

Following public noticing of this project and upon further investigation, Staff has determined that the Development Agreement Amendment filed by this applicant is unnecessary. The existing Development Agreement requires commencement of construction of 14 allocations by December 30, 2005, and 12 additional allocations by June 30, 2006. The applicant believes they are capable of meeting these deadlines. The Planning Commission concurred at their regular meeting of May 24, 2005, at which meeting the Commission tabled this item. Staff recommends the Council also table the item.

FISCAL IMPACT:

No budget adjustment required

Agenda Item # 18

Prepared By:

Contract Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: JUNE 15, 2005

**TITLE: DEVELOPMENT AGREEMENT AMENDMENT,
DAA-98-11: SPRING-MALONE/SPEER
RECOMMENDED ACTION(S):**

1. Open/Close the Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

EXECUTIVE SUMMARY: The applicant is requesting a Development Agreement Amendment (DAA) for one of the twenty-one building allotments for the Spring Manor Project, located on the south side of Spring Avenue, adjacent to the west side of Mt. Hope Cemetery. The applicant is requesting an additional one year (June 30, 2006) to commence construction of this home.

Pursuant to the City Council's RDCS Implementation policies, the building allotment for a custom lot extends two years beyond the time limit for the developer-built homes. Therefore, this custom lot should commence construction by June 30, 2005. The applicant is requesting a development agreement amendment to allow a one-year extension of time.

Under Section 18.78.125G of the Municipal Code, the City Council may grant a DAA if it finds that the cause for the lack of commencement was the City's failure to grant a building permit for the project due to extended delays in the environmental reviews, permit delays not the result of developer inaction, or allocation appeals processing. Construction of the custom home has been delayed due to a downturn in the economy and general confusion of the building allotment time limits. The applicant's letter of justification for the DAA is attached. Given that this is the last lot in this subdivision to be completed, the Planning Commission supported the extension of time request.

The Planning Commission reviewed the DAA application at their May 24, 2005 meeting and voted 6-0, recommending approval to the Council. A copy of the Commission's staff report and minutes are attached for the Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item #19

Prepared By:

Planning Intern

Approved By:

**Community
Development
Department Director**

Submitted By:

City Manager

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1685, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-97-22: SPRING – MALONE/SPEER TO ALLOW FOR A ONE YEAR EXTENSION OF TIME FOR A SINGLE CUSTOM LOT BUILDING ALLOTMENT RECEIVED IN THE 1998-99 RDCS COMPETITION. (APN 767-53-012) (DAA-98-11: SPRING-MALONE/SPEER)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. the Planning Commission pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 6 building allotments for FY 1999-2000 to application **MP-97-22: Spring-Malone**; and

SECTION 4. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 5. EXCEPTION TO LOSS OF BUILDING ALLOCATION. The project applicant has, in a timely manner, submitted necessary planning applications to pursue development. Based on the findings required in Section 18.78.125 of the Municipal Code, the City Council hereby approves the development agreement amendment to allow for a one-year Exception of Loss of Building Allotment for the single Measure P unit, extending the deadline to commence construction from June 30, 2005 to June 30, 2006 as shown in “Exhibit A”.

SECTION 6. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 7. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 15th Day of June 2005, and was finally adopted at a regular meeting of said Council on the _____ Day of July 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

⌘ CERTIFICATE OF THE CITY CLERK ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the _____ Day of July 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT A

EXHIBIT "B2" OF PROJECT DEVELOPMENT AGREEMENT

DEVELOPMENT SCHEDULE		
MP-97-22: Spring-Malone and MP 98-17: Spring-Malone FY 2001-02, 5 allotments		
<hr/>		
I.	SUBDIVISION AND ZONING APPLICATIONS	
	Applications Filed:	09-22-98
II.	SITE REVIEW APPLICATION	
	Application Filed:	10-01-99
III.	FINAL MAP SUBMITTAL	
	Map, Improvements Agreement and Bonds:	02-01-02
IV.	BUILDING PERMIT SUBMITTAL	
	Submit plans to Building Division for plan check:	02-01-02
V.	BUILDING PERMITS	
	Obtain Building Permits, Commence Construction:	06-30-05 6-30-06

Failure to obtain building permits and commence construction by the date listed in Section V above, shall result in the loss of building allocations. Failure to submit a Final Map Application or a Building Permit Submittal, Sections III. and IV. respective, six (6) or more months beyond the filing dates listed above shall result in applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additional, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above, Sections III. and IV. respectively, may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 11 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.



CITY COUNCIL STAFF REPORT

MEETING DATE: June 15, 2005

DEVELOPMENT AGREEMENT, DA-05-02: COCHRANE – LUPINE

RECOMMENDED ACTIONS:

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

EXECUTIVE SUMMARY:

The applicant is requesting approval of a development agreement for 36 single family homes, which represent the final three phases of the Alicante Estates project. Alicante Estates consists of a total of 92 dwelling units, and is located at the northeast corner of Cochrane Road and Peet Road in an R-1(12,000)/RPD Zoning District.

Project development agreements are required as a formal contract between the developer and the City. The development agreement formalizes the commitments made during the Measure C process and establishes the development schedule for the project. The project specific commitments are identified in Paragraph 14 of the development agreement, and the development schedule is contained in Exhibit B.

On May 24, 2005, the Planning Commission unanimously recommended approval of the development agreement, with modification to the affordable housing features by requiring that only first floor openings to homes be secured with a basic alarm system. For the Council's reference, a copy of the May 24 Commission staff report and draft minutes is attached.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing these applications.

Agenda Item # 20

Prepared By:

Associate Planner

Approved By:

CDD Director

Submitted By:

City Manager

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MC-04-25: COCHRANE – LUPINE (APN 728-34-022) (DA-05-02: COCHRANE - LUPINE)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 05-17, adopted March 1, 2005, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MC-04-25: Cochrane – Lupine	18 units (Fiscal Year 2006-07)
(Peet – Lupine Investors)	6 units (Fiscal Year 2007-08)
	12 units (Fiscal Year 2008-09)

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill.

These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 15th Day of June 2005, and was finally adopted at a regular meeting of said Council on the Day of July 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of July 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT
MEETING DATE: JUNE 15, 2005

**DEVELOPMENT AGREEMENT AMENDMENT, DAA-04-04:
HILL-GERA**

RECOMMENDED ACTION(S):

- (1) Open/close Public Hearing
- (2) Waive the First and Second Reading of Ordinance
- (3) Introduce Ordinance

EXECUTIVE SUMMARY:

The Pear Estates project consists of a nine lot single family homes on an approximately nine-acre site fronting the west side of Hill Road between Pear Drive and Jean Court. On April 6, 2005 the 9 unit projected received allocations (6 units, FY 2004-2005, 3 units FY 2005-2006). The expiration date for the building allotment is June 30, 2005.

The applicant is requesting an 18 month extension of time to commence construction for his six building allotments. The applicant states in his letter of request that an unusually short time between tentative map approval and the development schedule has delayed his project. Additionally, the original applicant of this project, George Gera, has passed away with his brother, Nick Gera, assuming control of the project. The current applicant anticipates receiving final Architectural and Site Review approval and commencement of construction within the next twelve months.

On May 24 the Planning Commission considered the request and voted 6-0 (Acevedo absent) to approve the Development Agreement Amendment request with an extension of 18 months, rather than the 12 originally requested. A copy of the Commission's May 24 draft minutes and staff report are attached for the Council's reference.

FISCAL IMPACT:

No budget adjustment required.

Agenda Item # 21

Prepared By:

Contract Planner

Approved By:

Comm. Dev. Director

Submitted By:

City Manager

ORDINANCE NO. ___, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1718, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-17: HILL - GERA (APN 728-07-47, 728-07-48, 728-07-49, 728-07-50, 728-07-51, 728-08-014, 728-08-015) (DA-04-04: HILL - GERA)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 04-35, adopted March 24, 2004, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP-02-17: Hill – Gera	6 allotments for Fiscal Year 2004-05
	3 allotments for Fiscal Year 2005-06

SECTION 4. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 5. EXCEPTION TO LOSS OF BUILDING ALLOCATION. The project applicant has, in a timely manner, submitted necessary planning applications to pursue development. Based on the findings required in Section 18.78.125 of the Municipal Code, the City Council hereby approves the development agreement amendment to allow for an Exception of Loss of Building Allotment for the single Measure C unit, extending the deadlines for building permit submittal from March 31, 2005 and January 31, 2006 to April 30, 2006; obtaining building permits from May 15, 2005 to June 30, 2006; and commencement of construction from June 30, 2005 and June 30, 2006 to September 30, 2006 and June 30, 2007 respectively.

SECTION 6. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 7. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 15th Day of June 2005, and was finally adopted at a regular meeting of said Council on the Day of July 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of July 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

Exhibit A

EXHIBIT "B" OF DEVELOPMENT AGREEMENT

**DEVELOPMENT SCHEDULE MP-02-17: HILL – GERA
FY 2004-05 (6 units), FY 2005-06 (3 units)**

- I. SUBDIVISION AND ZONING APPLICATIONS**
Applications Filed: August 10, 2004
- II. SITE REVIEW APPLICATION**
Application Filed: August 10, 2004
- III. FINAL MAP SUBMITTAL**
Map, Improvements Agreement and Bonds: March 31, 2005
- IV. BUILDING PERMIT SUBMITTAL**
Submit plans to Building Division for plan check:
FY 2004-05 (6 units) ~~March 31, 2005~~ **April 30, 2006**
FY 2005-06 (3 units) ~~January 31, 2006~~ **April 30, 2006**
- V. BUILDING PERMITS**
Obtain Building Permits:
FY 2004-05 (6 units) ~~May 15, 2005~~ **June 30, 2006**
FY 2005-06 (3 units) March 31, 2007
- Commence Construction:
FY 2004-05 (6 units) ~~June 30, 2005~~ **September 30, 2006**
FY 2005-06 (3 units) ~~June 30, 2006~~ **June 30, 2007**

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit six (6) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least five (5) dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.



CITY COUNCIL STAFF REPORT

MEETING DATE: June 15, 2005

ZONING AMENDMENT APPLICATION, ZAA 01-20: TENNANT-SAFEWAY

RECOMMENDED ACTION(S):

Open/close Public Hearing
Waive the First and Second Reading of Ordinance
Introduce Ordinance

EXECUTIVE SUMMARY: The City has received a request to amend the precise development plan for the Tennant Station shopping center located on the south east corner of the intersection of Monterey Rd. and Tennant Ave. The requested amendment would allow for an 8,586 sq. ft. increase in the size of the movie theater.

In May 2002, the City Council adopted Ordinance 1546 which approved a precise development plan and development guidelines. Ordinance 1546 allowed for the incorporation of the Safeway store, Safeway fuel center and a 7,000 sq. ft. pad building within the existing shopping center. Existing buildings and business within the center were detailed on the precise development plan adopted by the Council.

In July of 2004, the Cinelux Theater located in the southeast corner of the shopping center completed an extensive remodel which incorporated 3,898 sq. ft. of existing adjacent retail space.

The theater would like to expand the size of their building space, adding three additional auditorium areas totaling 8,586 sq. ft. The proposed 64 ft. x 134 ft. easterly addition would eliminate the 25 stall dead end parking area which currently exists on the eastern side of the existing theater. The proposed building setback (6 ft. from property line/ 16 ft. from curb) on Vineyard Blvd. would be the same as the 24 Hour Nautilus building to the north. The height of the addition (24 ft) will be the same as the existing building.

The proposed expansion would add 418 seats to the 871 existing, creating a total seating capacity of 1289 seats. The parking code requires 1 space per 3.5 seats or 1 per 32 sq. ft. of seating area. The expanded theater with a total of 31,595 sq. ft. would require 368 parking spaces. The theater prior to the 2004 remodel had 1,382 seats which require 395 parking spaces. The theater remodel and the proposed addition use wider, stadium type seating which reduces the overall seating capacity by 93 seats. The elimination of the 25 stall parking lot will be offset by the 93 seat reduction in the overall seating capacity.

On May 24, the Planning Commission considered the PUD amendment request to allow for a 8,586 sq. ft. expansion of the existing theater. The Commission voted 6-1 (Commissioner Lyle voting no) to approve the amendment request. A copy of the Commission's staff report and meeting minutes are attached for the Council's reference.

The applicant is unable to attend the June 15 Council meeting however, he would like to keep the application process moving forward. Should the Council have questions or concerns regarding the PUD amendment proposal, the applicant would request the Council continue the item to the next agenda so he would be available to answer questions or concerns.

FISCAL IMPACT: No budget adjustment required.

Agenda Item # 22

Prepared By:

Senior Planner

Approved By:

**Director of Community
Development**

Submitted By:

City Manager

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE PRECISE DEVELOPMENT PLAN APPROVED UNDER ORDINANCE NO. 1546, NEW SERIES FOR THE TENNANT STATION SHOPPING CENTER LOCATED IN THE PLANNED UNIT DEVELOPMENT (PUD) DISTRICT ON THE SOUTHEAST CORNER OF THE INTERSECTION OF MONTEREY ROAD AND TENNANT AVENUE. (APN's 817-06-039, 040 & 41) (ZAA-01-20: Tennant Safeway)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

- SECTION 1.** The proposed zoning amendment hereby amends Ordinance No. 1546 New Series, and is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3.** The PUD amendment is exempt pursuant to CEQA section 15301-existing structures.
- SECTION 4.** The City Council hereby approves an amendment to the precise development plan adopted as Figure I as part of Ordinance 1546. The proposed amendment will allow for a 8,586 sq. ft. increase in the size of the movie theater facility as shown on the attached set of plans dated April 1, 2005 on file in the Community Development Department. These documents, as amended by site and architectural review, show the exact location and size of the theater expansion. All other aspects of the development plan approved as part of Ordinance No. 1546, New Series shall remain in affect.
- SECTION 5.** The Council finds that the changes incorporated by Exhibit “A” are necessary to comply with the minimum zoning requirements as set forth in Chapter 18.30 of the Municipal Code (Zoning Code).
- SECTION 6.** The amendment to precise development plan shall be subject to the following:
1. Prior to the issuance of a building permit for the theater expansion, site, architectural and landscape plans shall be reviewed and approved by the Architectural and Site Review Board. The landscape improvement plans shall include all landscape improvements directly behind the theater building and all perimeter and parking lot landscaping located on the south side of the theater up to and including the Vineyard Blvd. driveway.

2. A detached sidewalk, not adjacent to the building, shall be installed along Vineyard Blvd. connecting the pedestrian path proposed on the north side of the theater to the pedestrian path on the south side of the theater.
3. The van accessible handicap parking stall shall be replaced in a location to be reviewed and approved by the Chief Building Official.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 15th Day of June 2005, and was finally adopted at a regular meeting of said Council on the Day of July 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of July 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT A

Tennant Station Shopping Center

PLANNED UNIT DEVELOPMENT (PUD) GUIDELINES

I. PUD SITE PLAN

- A. The project site for this PUD is illustrated in Figure 1. All new or remodeled development within this delineated area shall be required to meet the standards described herein.
- B. Proposed building foot prints illustrated in Figure 1. may be modified, so long as those modifications meet standard site development requirements.

II. ALLOWED USES/GENERAL PROVISIONS

- A. Permitted uses listed in the General Commercial (CG) Zoning District (Chapter 18.22) shall be allowed in the PUD. Conditional uses listed in the CG zoning district will still be considered conditional uses and would require conditional use permit approval prior to issuance of a business license.
- B. The following existing uses shall be allowed on specific locations and sizes shown on Figure 1. Any enlargement or relocation of the following uses will require amendment to the PUD.
 - Bowling Alley 26,525 sq. ft.
 - Movie Theater **31,600 sq. ft.**
 - Fitness Center 24,708 sq. ft.
- C. In the event that an existing use changes, either through a business license application or through a conditional use permit, the Community Development Department may require a parking utilization study prior to issuance of a permit or license to determine if the site provides adequate parking for the new use.
- D. All plans shall be subject to architectural and site review approval by the City of Morgan Hill Architectural Review Board (ARB).
- E. All public improvements necessary to support the shopping center or a use within the shopping center shall be completed prior to occupancy of the supermarket.
- F. A public restroom(s) shall be provided at the fuel center.

- G. An “Exit Clause” shall be recorded prior to the issuance of a building permit for the construction of a fuel center. The language for the “Exit Clause” shall be to the review and approval of the City Attorney. The “Exit Clause” shall include some form of surety to guarantee the removal of the fuel center use if abandoned by Safeway and a new operator is not found within a one year period. The Planning Commission may approve up to two, one-year extensions upon receipt of documentation of a pending agreement with a new operator or other indication of potential sale or reuse.
- H. One year after the opening of the grocery store, a review shall be completed by the Police Department to assess the safety of the Vineyard Boulevard drive aisle. If additional safety improvements are deemed necessary, by the Planning Commission, after conducting a public hearing, may require the owner to install safety improvements to mitigate the identified safety hazards. Examples of such improvements are speed control devices such as speed bumps or stop signs. Safety improvements would not require any change to the size of the buildings.

III. DESIGN

A. THEME

1. General aesthetic character of the building exteriors shall be architecturally compatible. Exterior materials and colors shall be consistent throughout the center.

a.

A. SITE DEVELOPMENT

1. General Information

- a. Site development shall adhere to the following Municipal Code Sections, unless specific deviation is addressed elsewhere in this document

1. Section 18.22.040, with respect to setbacks, minimum lot size, building coverage, and height restrictions. (Site Development Standards for the CG Zoning District)
2. PUD, Planned Unit Development District, Chapter 18.30
3. Flood Damage Prevention, Chapter 18.42
4. Commercial and Industrial Performance Standards, Chapter 18.48
5. Off-Street Parking and Paving Standards, Chapter 18.50
6. Exceptions and Modifications, Chapter 18.56
7. Design Review, Chapter 18.74
8. Signs, Chapter 18.76

2. Site Planning

a. Trash Enclosures

1. Trash enclosures shall be constructed in accordance with design guidelines developed in the Architectural Review Handbook.

2. Trash enclosures shall be located in areas which would minimize visual impact from the public right of way.
3. Shrubs and vine planting shall be provided to screen utilities and trash enclosures.
4. In the event that excessive trash begins to accumulate, the City may require the owner to arrange for additional refuse pick-up.
5. All refuse bins shall be kept within trash enclosures.
6. The trash enclosure at the gas station site shall be moved back behind the kiosk. All trash enclosures shall be located out of public view to the greatest extent possible.
7. A trash enclosure shall be placed on Pad 5 and shall be constructed with a shade trellis.

b. Fences and Walls

1. Walls shall be designed to be compatible with the surrounding landscape and architectural concept.
2. Compressors shall be screened by a wall and shall be located below the fascia and/or roof line of the building. Further, they shall be located on the rear or hidden side of the building and shall be painted to match the surface to which attached, if that surface is visible.

c. Parking and Loading/Circulation

1. All parking shall be screened from public view through the use of berming, hedge row planting, shrubs, trees, fences or walls, or any combination thereof. At the time of installation plantings shall be a minimum of 15 gallon trees and 5 gallon shrubs
2. Vertical and horizontal sight lines should be sufficient to ensure safe vehicular, as well as pedestrian movement.
3. Parking shall be screened from roadways.
4. No angled parking or one way drive aisles shall be utilized in new or revised parking lots.
5. Access to the property and circulation thereon should be safe and convenient for pedestrians, cyclists and vehicles.
6. Cross access easements shall be provided throughout the PUD.
7. Dead end drive aisles shall be eliminated and avoided where ever possible.
8. All main drive aisles within the PUD shall be a minimum of 30 ft. in width at the project's entrances/exits
9. Adequate auto stack-up areas of at least 40 ft. shall be designed to permit a minimum of two cars to enter the parking lot area without obstructing either street through traffic or vehicle backup areas within the parking lot.
10. The drive aisles along the Tennant Avenue and Monterey Road frontage (from the first driveway to the corner) shall be reduced to 25 ft. and the excess area added to the perimeter landscaping in order allow for berming within the landscape area. The objective is to add approximately 8ft. to the

Monterey Road side and approximately 5 ft. to the Tennant Avenue side.

a. Walkways

1. Parking areas shall be designed to include provision for pedestrian walkways to provide access to building entrances.
2. Walkways that cross traffic lanes shall have special design features such as raised and/or textured pavement, narrowed roadway, or combination thereof.
3. Walkways shall be provided through landscaped areas to protect landscaping from foot traffic damage.
4. The overall design of the project shall allow for safe and a free unrestricted flow of vehicular flow and pedestrian traffic from one lot to another.
5. Access to property and circulation shall be safe and convenient for pedestrians and vehicles.
6. Vertical and horizontal sight lines shall be sufficient to ensure safe vehicular and pedestrian movements.
7. In order to facilitate vehicle and pedestrian safety, walkways shall extend a minimum of 5 ft. past a building or architectural feature.

e. Merchandise Loading and Deliveries

1. Two (2) off-street loading spaces (each space measuring at least twelve feet wide, forty feet long and fourteen feet high exclusive of necessary area for maneuvering, ingress and egress) shall be provided for the supermarket or any other use that requires frequent or large deliveries.
2. Loading areas shall be screened from view by a solid wall. The wall shall be architecturally treated and screened with landscaping.
3. Loading areas shall not be located adjacent to or visible from a public right of way.

C. ARCHITECTURE

1. General Provisions

1. No building within the PUD shall exceed 30 feet in height. Exception to the maximum height limitation may be granted through the minor exception process.
2. Materials, textures, colors and details shall be compatible with those used though out the shopping center.
3. All commercial buildings shall be one-story in appearance and shall contain a full roof element.
4. Any outdoor storage of goods, material or equipment shall be limited to 8 ft. in height and screened from view of any roadway or adjacent property. The screening shall be designed as on integral part of the building design and site layout.
5. No franchise architecture shall be permitted.
6. Building design shall be compatible with the immediate environment and

provide harmonious transition between various uses.

2. Roof and Eve Elements

- a. Roof materials shall be consistent throughout the shopping center.
- b. No visual flat roof lines shall be allowed.
- c. Mechanical and utility equipment shall be located below the roof line or parapet wall and out of public view. Location within the building or at ground level is preferred to roof-mounting. When such equipment cannot be so located, all roof-mounted mechanical equipment or duct work which project vertically above the roof or roof parapet shall be screened by an enclosure which is detailed consistently with the building design.
- d. Compressors shall be screened by a wall or fence and be located below the fascia and/or roof line of the building. Further, they shall be located on the rear or hidden side of the building and shall be painted to match the surface to which attached, if that surface is visible.
- e. No mechanical equipment is to be exposed on the wall surface of a building.

3. Elevations and details

- a. Colors of windows and window frames shall be consistent throughout the center.
- b. All exterior wall elevations visible from and/or facing roadways shall have architectural treatment. No building surface fronting on a street shall have a flat, void surface without architectural treatment.
- c. Structures shall incorporate breaks in horizontal planes by stepping or staggering setbacks and recessing windows and entrances, to provide substance and scale.
- d. Doors and windows shall be enhanced by use of various sizes and shapes, and highlighted by the use of accent trim (e.g., molding, or wood trim).
- e. The design shall be complementary to the existing architectural style of the shopping center.
- f. Gutters and down spouts shall be designed interior to the walls when adjacent to a street or drive aisle frontage. All other gutters and down spouts that are located exterior to the wall shall be treated to blend into the facade to which it is attached.
- g. Facade architectural treatment shall be applied to all building elevations with the same degree of detail as the building entrance.
- h. The Architecture and Site Review Board shall study the possibility of including some kind of public art or mural on the east elevation of the Safeway building.

D. LANDSCAPING

1. General Provisions

- a. Design criteria for landscaping shall be consistent throughout the PUD.
- b. All existing mature landscaping shall be maintained to the greatest extent possible.

- c. Street trees, measuring a minimum of 24-inch box having a minimum height of ten feet and crown diameter of four feet at the time of planting, shall be planted and maintained along the entire shopping center frontage.
- d. A canopy tree shall be planted in the parking lot planter islands to produce shade.
- e. Parking islands shall also include a variety of low ornamental grasses and flowering shrubs.
- f. Existing perimeter landscape setbacks shall not be decreased in size.
- g. Building perimeters shall be landscaped (including trees and planters) adjacent to and around each building, with emphasis placed along the primary building frontage.
- h. Street trees (minimum 24-inch box) shall be provided every 25 ft. on center, within the curb side planter around the entire shopping center.
- i. Landscaping at the entrance of a building shall include box size and/or accent trees to create a focal point to help direct people to the building entrance.
- j. All shrub planting shall be a minimum of 5 gallon size and all tree plantings shall be a minimum of 15 gallon.
- k. Native oaks and field stones shall be incorporated into the landscape plan.
- l. All trees planted within the landscape setback along all street frontages shall be a minimum of 24 inch box shall have a minimum height of ten feet and crown diameter of four feet at the time of planting.
- m. The entrances to the shopping center shall be well landscaped and serve as a focal point.
- n. A large significantly sized specimen tree shall be located and maintained in the landscape area at the corner of Tennant Avenue and Monterey Road.
- o. Landscaping shall be compatible with, and complement the site planning, as well as the architecture of the building. Plantings in parking lots shall help soften and visually tie the buildings to landscaping.
- p. Shrubs and vine planting shall be provided to screen utilities and trash enclosures.
- q. Landscaping shall be added to the existing buildings located along the east side of the Vineyard Boulevard entrance. The landscaping shall be in the form of shrubs and/or container flowers.
- r. All backflow devices, fire risers and check valves shall be screened with landscaping.

2. Lighting

- a. The design of the exterior building lighting and parking lot lighting fixtures shall be compatible with the architecture and the existing fixtures within the shopping center.
- b. The maximum height of all new lighting installed within the shopping center shall be 20 ft. The site lighting shall be high pressure sodium.
- c. All lighting shall be shielded and directed in such a manner so as not to produce harmful effects upon neighboring property.
- d. The lighting for all of the uses within the PUD shall be to the review and approval of the Community Development Director and Police Chief.

- e. Adjustment to the lighting intensity may be requested after the commencement of the use.
- f. Roof top lighting is prohibited.
- g. Landscape up-lighting is acceptable.
- h. Lighting for pedestrian pathways shall be reduced in height and scale, to create a more human-scale feeling and atmosphere.
- i. The lighting throughout the shopping center shall be supplemented with additional fixtures and maintained to meet the Police Department specifications.
- j. Additional lighting shall be added to the existing building on the east side of the Vineyard Boulevard entrance.

E. MISCELLANEOUS

1. **Signs-General Requirements**

- a. All building attached and freestanding signs shall be consistent with the uniform sign program adopted for the shopping center and shall not exceed the sign height and area limited as set forth in Section 18.76.250 of the Morgan Hill Municipal Code.
- b. Each tenant shall submit 1 set of drawings to the representative of the shopping center for approval of proposed sign before applying for a sign permit with the Community Development Department. Said plans shall accompany a formal sign permit application.
- c. A sign permit must be approved by the City of Morgan Hill's Community Development Department before installation of proposed signs.
- d. Address numbers shall contrast with their background and shall be a minimum of six inches in height. Address numbers shall also occur on the monument sign.
- e. The monument sign located at the corner of Tennant Avenue and Monterey Road shall have a curvilinear design.
- f. The Architectural and Site Review Board shall study the possibility of reducing the number and size of the signs.

2. **Appurtenant Uses/Devices**

b. *Shopping Carts*

- 1. Commercial uses providing shopping carts shall provide indoor storage of the carts and shall provide for collection areas consistent with detail "A" attached, throughout the parking lot.
- 2. If shopping carts are provided the shopping center shall post, in a prominent and conspicuous location near major entrances to the retail establishment, a sign with the following information: "REMOVAL OF SHOPPING CARTS (OR LAUNDRY CARTS) FROM THESE

PREMISES IS PROHIBITED BY LAW (CMC SECTION 8.46.0400) AND WILL SUBJECT THE VIOLATOR TO A MINIMUM FINE OF \$100.00.”

3. Shopping carts shall be identified with a sign stating the following information in a typeface which is easily readable and in at least fourteen point type: identification of the owner of the cart or the retailer, or both; notification of the procedure to be utilized for authorized removal of the cart from the premises; notification that the unauthorized removal of the cart from the premises or parking area of the retail establishment, or the unauthorized possession of the cart, is a violation of state law and the Municipal Code of the City of Morgan Hill; and listing of a valid telephone number or address for returning the cart removed from the premises or parking area to the owner or retailer.
- c. Vending machines, rides, newspaper racks or any coin operated devices shall not be placed on the exterior of any building.
- d. No exterior retail displays shall be allowed.

3. Utilities

- a. All backflow devices, fire risers and check valves shall be screened with landscaping.
- b. All future development shall be subject to review by the appropriate utility and public service providers for the City of Morgan Hill.
- c. No utility equipment shall be located within the front setback area unless placed within an underground vault.
- d. All transformers shall be located interior to the site, outside of the front setback area, and shall be screened with landscape material.



CITY COUNCIL STAFF REPORT

MEETING DATE: *June 15, 2005*

FOX HOLLOW MURPHY SPRINGS LANDSCAPE AND
LIGHTING ASSESSMENT DISTRICT
CONDUCT FIRST PUBLIC HEARING FOR PROPOSITION 218
BALLOTING PROCESS

RECOMMENDED ACTION(S): Conduct the Public Hearing and receive public comments

EXECUTIVE SUMMARY: On May 4, 2005 Council Approved resolutions setting Public Hearing dates of June 15 and July 6, 2005 for the Fox Hollow Murphy Springs Landscape and Lighting Assessment District, Initiating proceedings for the levy of assessments for the District, and approving the Engineer's report.

Since the May 4, 2005 meeting staff has sent ballots pursuant to the Landscape and Lighting Act of 1972 and in accordance with Proposition 218 to the property owners whose annual assessment rate is proposed to increase in 2005-06. This affected 706 out of 755 property owners within the assessment district. Staff has also held 3 community meetings (June 2, 7, and 13) with property owners to answer questions and provide information relative to the proposed increases. Attached is summary information regarding the proposed assessment rate increases and inflator and historical rates per sub area.

Tonight's Public Hearing is required as a part of the Proposition 218 balloting process. This meeting provides all property owners an opportunity to "be heard" regarding the proposed assessment rate increases. At the July 6, 2005 Council Meeting a second Public Hearing will be conducted. All ballots are due that day and will be tabulated after the Public Hearing.

Staff has received several inquiries from the property owners regarding the possibility of the City creating a city-wide assessment district. The property owners feel that the individual sub areas are available to the entire public therefore, it would be more equitable that the entire public be assessed for maintenance costs. This consideration is timely given the Council's planned evaluation in Fiscal Year 2005-06 of the generation of new revenue. Staff adds that a city-wide assessment district may also be used to raise new revenue for the maintenance of roadside medians and public facilities grounds.

FISCAL IMPACT: None at this time.

Agenda Item # 23

Prepared By:

Deputy Director Public Works/Operations

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: JUNE 15, 2005

**TITLE: PUBLIC HEARING OF PROPOSED FY 2005/06
OPERATING AND CAPITAL IMPROVEMENT
PROGRAM BUDGET**

RECOMMENDED ACTIONS:

- 1) Open and close public hearing**
- 2) Discuss the Proposed Budget**

EXECUTIVE SUMMARY:

On Friday May 20, 2005, City staff presented at an all day workshop the City Manager's Proposed FY 2005/06 Operating and Capital Improvement Budget, as well as the 2005/06 to 2009/10 Capital Improvement Plan. The City Council set June 15, 2005 for this public hearing and scheduled June 22, 2005 for adoption of the budget.

The Budget document is available to the public at the counter in City Hall, at the Morgan Hill Library, and on-line at the City's web page.

FISCAL IMPACT:

The fiscal impact is discussed within the City Manager's budget message, which is located at the front of the Budget document.

Agenda Item # 24

Prepared By:

Finance Director

Submitted By:

City Manager



REDEVELOPMENT AGENCY STAFF REPORT

MEETING DATE: June 15, 2005

CHAMBER OF COMMERCE ECONOMIC DEVELOPMENT MARKETING PLAN FOR FY05-06

Agenda Item # 25

Prepared By:

BAHS Director

Submitted By:

Executive Director

RECOMMENDED ACTION(S): 1) Refer the Morgan Hill Chamber of Commerce's Economic Development Marketing Plan to the Council's Community and Economic Development Committee (C&ED) for consideration and recommendation and 2) Establish parameters for the C&ED to consider in evaluating the proposal.

EXECUTIVE SUMMARY:

The Morgan Hill Chamber of Commerce (Chamber) has been providing supplementary economic development services to the City/Redevelopment Agency for over ten years. City staff could not provide these additional services without adversely impacting existing workload and programs. In December 2005, the Agency approved an agreement with the Chamber to provide economic development services per its Economic Development Marketing Plan (Plan).

The Chamber's proposed Plan for FY05-06 continues the provision of economic development services at the same level of funding (\$125,000) as FY04-05. Attached is the Plan which also contains highlights of their achievements during this current fiscal year. There are some changes in the type of services to be provided and in how the funds are to be allocated. Two of the new services proposed are that the Chamber will be 1) conducting an analysis to determine the needs of renewable resource companies in town and how best to nurture those industries and 2) evaluating strategies for regional economic development efforts in south county. With respect to funding, the Chamber is proposing to allocate \$24,000 for facility overhead costs and the Chamber would pay for facility rentals at the community center directly out of their budget. Previously, the Chamber did not fund any staff or facility overhead out of the funding and facility rentals were paid for directly by the Agency which retained \$5,000 of the \$125,000 for such expenses.

We are recommending that the Plan be referred to the Council's C&ED Committee for consideration. The C&ED would be tasked with: 1) evaluating the Plan including meeting with the Chamber to discuss the Plan and 2) reporting back to the Agency with a recommendation in July. To assist the C&ED with this task, it would be helpful if the Agency provided parameters for the C&ED to consider in its evaluation of the Plan. Such parameters could include level of assistance and the specific allocation of funds.

FISCAL IMPACT: For FY04-05, the Chamber has spent about \$90,000 of the \$125,000 budgeted for this service. The proposed BAHS FY05-06 economic development budget (Fund 317) allocates \$125,000 for this service.



CITY COUNCIL STAFF REPORT

Agenda Item # 26

MEETING DATE: *June 15, 2005*

YEAR-LONG COMMUNITY CONVERSATION

FROM: STEVE TATE, CHAIR, FINANCIAL POLICY COMMITTEE

RECOMMENDED ACTION:

- 1) Discuss report from Financial Policy Committee and provide direction.
- 2) Add \$50,000 to the proposed 2005/06 General Fund Budget for the cost of a consultant to manage the year-long community conversation process.

EXECUTIVE SUMMARY:

The City Council adopted the following 2005 City Budget goal on March 2, 2005:

“By April 2005, the Financial Policy Committee will report the results of a statistically significant random sample of Morgan Hill voters on issues relating to the Sustainable Budget Strategy. Thereafter, the Council will adopt an approach to conducting a community wide conversation about the appropriate level and mix of city services and a strategy to finance them. The objective of the community conversation is to develop consensus on what measures to place before the voters in November 2006 or earlier.”

In response, City staff, working with the Financial Policy Committee, hired a polling consultant to undertake a community survey of 400 likely voters. The Committee guided the consultant in framing the questions to be asked of local residents and worked with the consultant to produce a summary of results. Those results will be shared with the City Council this evening through a PowerPoint presentation. The survey showed that, in general, the community is satisfied with the quality of services provided by the City and that the community does not currently support a new tax to increase funding for City services. Therefore, it is critical that the community engage in a conversation with the City so that the public may understand the financial picture facing the City and may provide direction to the City as to what level of services it desires and what level it is willing to pay for.

Attached is an outline of recommended Community Conversation Guidelines proposed by the Financial Policy Committee. The outline provides the purpose, timeline, and three phases of the community conversation over the next year. Those phases are:

- 1) Educate and invite engagement in conversation
- 2) Explore options interactively
- 3) Develop Consensus

Should the conversation indicate proceeding with a ballot measure, the ballot campaign would follow.

FISCAL IMPACT:

It is necessary that the City take action to address the ongoing annual \$1.2 million General Fund deficit, consistent with the Sustainable Budget Strategy adopted by the City Council. The proposed 2005/06 budget includes \$25,000 for a second community survey and includes \$25,000 for materials needed to engage in the community conversation. The Committee is recommending that the City Council add \$50,000 more to the proposed 2005/06 Budget so that the City may invest one-time monies in a consultant who would manage the community conversation process and enable the City to take steps necessary to provide the level of services that the community desires. The \$50,000 appears to be at the low end of the range for this type of consultant. If a consultant were not hired, staff would manage this process, but this would mean that other pressing tasks would be deferred.

FINANCIAL POLICY COMMITTEE
RECOMMENDED COMMUNITY CONVERSATION GUIDELINES

(Staff Report Attachment – June 15, 2005 Council Agenda)

PURPOSE:

- Enable the City Council to make a decision on what (if anything) to put on a November 2006 ballot for revenue enhancement:
 - Through interactive discourse, receive informed public input on options and choices for public services to help shape City Council decision on a ballot measure.
 - Achieve community consensus on a mix and level of services and how to pay for them.
 - Based on consensus, either construct a revenue enhancement ballot measure or a balanced budget by adjusting services

Phase 0: HIRE CONSULTANT TO DESIGN/ADMINISTER THE CONVERSATION

- Define process (es) to be used, identify audiences, train, set up analyses, etc.
- Minimal cost is \$50,000, need to consider price vs. value

BEGINNING JULY 4 2005

Phase 1: EDUCATE AND INVITE ENGAGEMENT IN CONVERSATION:

- Use “Community Conversation” but perhaps develop a slogan or some sort of attention “grabber” to act as a catalyst to get people engaged.
- Include education on all possible options.
- In selecting audiences, try to focus on likely voters.
- Describe magnitude of problem to provide an incentive.
- Engage new “opinion leaders” (Faith-Based, Commissions, Sports Groups, Home & School Clubs, etc.), create ambassadors with ownership of our goals.
- Set up a true interchange over time, not just immediate reactions, process should require time for “opinion leaders” to absorb and reflect on things, then have further dialog.
- Use workshops, speaker’s bureau, small group sessions, and on-line mechanisms that do not inhibit the true interchange and other mechanisms (consultant input).
- Revenue requirements for expanded services (e.g.: 3rd fire station) should be included.
- Try to establish priority of services, maybe within cost constraints.
- Coordinate community conversation with centennial activities, as appropriate.
- Create community vs. individual focus on input.
- End of 2005 timeframe, analyze/summarize and provide management feedback.
- Listen, don’t “tell” (and try to establish similar approach for audiences).
- Early January 2006, conduct second community survey (process-dependent).

STARTING JANUARY 16, 2006

Phase 2: EXPLORE OPTIONS INTERACTIVELY:

- Continue education and invitation.
- Emphasize input and direction from audiences
- Process needs to increase emphasis on establishing pros/cons of options and start to narrow them down in terms of general acceptability.
- Mid-May, 2006, conduct third community survey to obtain additional input (optional, process-dependent)

May 20, 2006 FORWARD

Phase 3: DEVELOP CONSENSUS

- Continue invitation/education/exploration as appropriate.
- Focus on direction community provides.
- Minimize options (two or three at most?).
- Develop rationale for options selected.
- Recruit/retain opinion leaders/ambassadors to help educate /justify options.
- Next steps.



CITY COUNCIL STAFF REPORT

MEETING DATE: June 15, 2005

Agenda Item # 27

Prepared By:

**Council Services &
Records Manager**

Submitted By:

City Manager

INTERVIEW AND APPOINTMENT PROCESS FOR BOARDS AND COMMISSIONS

RECOMMENDED ACTION(S):

1. Consider current interview/appointment process to boards and commission;
2. Consider alternative process(es);
3. Provide Staff direction as to the preferred process; and
4. Schedule date to interview.

EXECUTIVE SUMMARY:

On May 18, 2005, Council Member Grzan requested that the procedure and process for conducting Board and Commission interviews and appointments be agendized for Council Discussion.

The following is the current Council's interview and appointment process:

1. Board and Commission Applicants are invited to give a two minute introduction statement about themselves and their interests/qualifications for serving on a particular board or commission;
2. Council members ask individual question(s) of each candidate;
3. Applicant provides final comments;
4. The Council ranks each candidate (a rating of 1 is giving to first choice, a rating of 2 for second choice, etc.);
5. The scores for each candidate are tallied, resulting in an average score; and
6. Mayor appoints candidates with lowest score(s) to the board or commission, subject to approval by the majority of the City Council (per Municipal Code and Government Code Section 40605).

Staff contacted the City Clerk's professional organization to inquire about their respective interview and appointment process. Attached is a table containing responses received.

Staff seeks Council direction in the preferred process to interview and appoint interested citizens willing to serve on the City of Morgan Hill's boards and commissions.

Staff requests that the Council identify a date(s) to conduct interviews to fill vacancies on the Planning Commission and the Mobile Home Rent Stabilization Commission. Staff has received 4 applications, to date, to fill 3 vacancies on the Planning Commission and 3 applications to fill 1 vacancy on the Mobile Home Rent Commission. An application to fill the mobile home park owner/representative vacancy has not been submitted. Staff has not been successful in its recruitment efforts to fill 4 vacancies on the Architectural & Site Review Board. Staff is working and encouraging the incumbents to submit an application for reappointment.

FISCAL IMPACT: None



***CITY COUNCIL & REDEVELOPMENT
AGENCY STAFF REPORT
MEETING DATE: June 15, 2005***

Agenda Item # 28

Prepared By:

**Council Services &
Records Manager**

Submitted By:

City Manager

JULY 2005 MEETING SCHEDULE

RECOMMENDED ACTION(S): Provide Staff direction regarding the City Council and Redevelopment Agency's July 2005 meeting schedule.

EXECUTIVE SUMMARY:

On February 16, 2005, the City Council/Redevelopment Agency Board reviewed its summer meeting schedule. At said meeting, the Council/Agency Board agreed to cancel the August 17, 2005 meeting, and further requested that staff review the July meeting schedule to see if there is a possibility of consolidating the July 20 and July 27 meetings. Staff has reviewed the upcoming agenda items for the July 20 and July 27 meetings and believes that the July 20 meeting can be consolidated with the July 27 meeting. Staff is seeking the City Council/Agency Board direction as to whether it wishes to hold the regularly scheduled meetings in July (July 6, July 20 and July 27) or whether the Council/Agency Board wishes to cancel its July 20 meeting.

FISCAL IMPACT: None